

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 09 CR 466 (BMC)
5 UNITED STATES OF AMERICA
6 United States Courthouse
7 versus Brooklyn, New York
8
9 JOAQUÍN ARCHIVALDO GUZMÁN LOERA,
10 January 8, 2019
11 Defendant. 9:30 a. m.
12 -----x

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14 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL
15 BEFORE THE HONORABLE BRIAN M. COGAN
16 UNITED STATES DISTRICT JUDGE
17
18

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LISA SCHMID, CCR, RMR

1 (In open court, outside the presence of the jury.)

2 THE CLERK: All rise.

3 THE COURT: Good morning.

4 Have a seat, please. Just before we bring in the
5 jury, twenty seconds of your time?

6 First, I don't know if the parties have seen it, but
7 I docketed an order on the Government's Motion in Limine
8 regarding the psychological issues. I'd like to unseal all
9 the motion papers on that. Think about that. Tell me during
10 the next break whether we can do that. I don't see any reason
11 to seal it, based on my ruling.

12 Second, I've gotten the Government's proposed
13 instructions. I'd like any objections or proposed
14 counter-instructions from the defense by a week from today.

15 Okay? All right. Let's have the jury.

16 MR. PURPURA: Your Honor, if I may, yesterday, there
17 was an issue as to the 924(c) and consecutive 924(c)s. I've
18 shared with Government counsel early this morning *United*
19 *States versus Deal*, which is a 1993 Supreme Court case, 508
20 *United States* 129, which makes it clear for all the circuits
21 that the 924(c)s do run consecutive on top of each other.

22 THE COURT: Yes. I assume from the Government's
23 lack of any counter to that, that you had taught us all
24 something yesterday, for which we thank you.

25 MR. PURPURA: You're welcome.

1 THE COURT: Let's have the jury, please.

2 (Jury enters.)

3 THE COURT: All right. Everyone be seated.

4 Good morning, ladies and gentlemen.

5 JURORS: (In unison) Good morning.

6 THE COURT: We'll continue with cross-examination.

7 Mr. Purpura?

8 MR. PURPURA: Your Honor, thank you.

9 Your Honor, I'm going to move into evidence at this
10 point without objection Demonstrative 420.

11 (Exhibit published to the jury.)

12 MR. PURPURA: And ask that it please -- oh, there it
13 is. Thank you.

14 THE COURT: All right. That's received. It's a
15 summary?

16 (Defense Exhibit 420 was received in evidence.)

17 MR. PURPURA: Thank you.

18 Q Mr. Galvan, just to get back to where we were yesterday,
19 we agreed that on February 9th, 2011, there was a superseding
20 indictment against you, that on February 11th, 2011, you were
21 arrested in the maroon Hummer, which we saw. September 19th,
22 2011, there was a jury selection in your case, and then on
23 September 23rd, 2011, there was a plea.

24 A Correct, sir.

25 Q Thank you, sir.

1 And you signed the proffer agreement on
2 September 29th -- excuse me. There was a proffer agreement
3 dated September 29th, 2011, which has been admitted into
4 evidence, and you signed it on November 10th, 2011. And these
5 (indicating) would be the following proffer dates that we have
6 agreed upon. Is that about right, sir?

7 A Yes. Well, I don't remember the dates exactly, but I do
8 remember there were several sessions.

9 Q And Mr. Galvan, when you initially spoke to Government
10 counsel and agents back on February 10th, 2011, but as you
11 indicated in your prior testimony, that you wanted to be as
12 truthful as possible, correct?

13 A Yes. I was answering to all of the questions that they
14 were interested in asking me at the time.

15 Q And you knew that the more information you can give about
16 criminal activity, the more helpful it would be to you. It's
17 just common sense, correct?

18 A Yes. I was asked -- I was answering to all of the
19 questions they were asking me.

20 Q Okay. Well, let me ask you this. Did you hold
21 information back if they didn't ask you a question?

22 A The time that I was asked the question, I was focused on
23 the questions that they were asking me, and I had so much
24 information that that's what I was trying to do.

25 Q Fair enough.

1 And you gave that information about your drug
2 partner, Isaac Hernandez, correct?

3 A At that time.

4 Q And you also gave them information about his source at
5 that time and you indicated on your direct testimony that was
6 Lic, L-I-C, correct?

7 A I don't know who that one is.

8 Q You don't remember suggesting that Mr. Hernandez had a
9 source of supply. His name was Lic or he was referenced as
10 Lic, L-I-C, as professor?

11 A Oh, Licenciado. Yes.

12 Q And I apologize. LIC, that's an abbreviation apparently
13 for Licenciado?

14 A Yes.

15 Q And that's a general reference to someone who may have a
16 degree perhaps beyond college, perhaps a lawyer or someone
17 with education, correct?

18 A It is a nickname that any person can get.

19 Q Okay. And you indicated that you worked with
20 Mr. Hernandez maybe three or four years, right?

21 A At times.

22 Q Okay. And that Hernandez -- Mr. Hernandez worked for the
23 Juárez Cartel?

24 A No, I didn't know who he worked for.

25 MR. PURPURA: May I please have EIG-9?

1 BY MR. PURPURA:

2 Q Do you recall at that debriefing on September 10th, 2011,
3 do you remember telling the Government agents that Hernandez
4 worked for the Juárez Cartel?

5 A What I remember is that Isaac and I would hang out
6 together on the side, El Paso side.

7 Q The answer is, do you remember -- you do not remember, is
8 that correct, saying that?

9 A No, I do not remember.

10 Q Very good.

11 Let me show you what has been marked as Defense
12 Exhibit 404.

13 MR. PURPURA: Bates stamp 137 for the Government.

14 (Publishes exhibit to the witness.)

15 And I'd ask the interpreter, please, just to read
16 this sentence right here. (Indicating.)

17 THE INTERPRETER: Where it starts with -- could you
18 point that out, again, counsel? Thank you.

19 THE COURT: Paragraph or the sentence?

20 MR. PURPURA: Just the sentence.

21 THE INTERPRETER: (Complies.)

22 MR. PURPURA: If you want to read the whole
23 paragraph just for context? Thank you. Your Honor.

24 THE INTERPRETER: (Complies.)

25 THE WITNESS: (Speaking in Spanish.)

1 MR. PURPURA: There's no question.

2 BY MR. PURPURA:

3 Q Okay. Now, I'm going to ask you, do you recall, first of
4 all, saying that you had a working relationship with
5 Mr. Hernandez selling drugs for three to four years?

6 A There was no working relation, but --

7 THE INTERPRETER: Relationship. Interpreter
8 correction.

9 A But we did do a couple of things together, two or three
10 things together.

11 Q Over three or four years?

12 A Maybe about two or three years.

13 Q And then you did not tell the agents that you had a three
14 to four year working relationship in drug trafficking with Mr.
15 Hernandez? Is that what you're saying here today? It's a yes
16 or a no?

17 A I'm sorry. What was the question again?

18 Q We'll move on.

19 Now, do you remember telling the agents that
20 Mr. Hernandez worked for the Juárez Cartel?

21 A Well, what I told them is that he did not work for the
22 Sinaloa Cartel because what happens is that there are no
23 cartels in El Paso, Texas.

24 Q Well, let me ask you again: Specifically, did you tell
25 the agents when you first proffered that Mr. Hernandez worked

1 for the Juárez Cartel and he had historical relationship
2 involvement with that cartel?

3 A What I told them is that he did not work for the Sinaloa
4 Cartel.

5 Q Just yes or no, did you -- did you tell them that
6 Mr. Hernandez worked for the Juárez Cartel, yes or no? Si or
7 no?

8 A Are you asking me -- if you are asking me if I told them
9 that Isaac Hernandez worked for the Juárez Cartel, no, I did
10 not tell them that he worked for the Sinaloa Cartel.

11 Q All right. And you indicated that you and Mr. Hernandez
12 had a source for marijuana, correct?

13 A No, we didn't have like a supplier.

14 Q Do you Mr. Capulina, C-A-P-U-L-I-N-A?

15 A Who.

16 Q Do you recall telling the agents that you received a
17 thousand pounds of marijuana and that your source of supply
18 was Mr. Capulina?

19 A If I remember, well, Capulina was on Rudy's side.

20 Q Do you remember telling the agent that you received a
21 thousand pounds of marijuana from this source, Mr. Capulina to
22 distribute? Yes or no, do you remember that?

23 A Yes, sir.

24 Q Okay. Thank you.

25 Do you remember that you also indicated to the

1 agents that you received drugs, in particular, cocaine, from a
2 Mr. Pelon, P-E-L-O-N?

3 A No, I don't remember.

4 Q All right.

5 MR. PURPURA: Government counsel, Bates stamp 140,
6 same document.

7 Can you please read this paragraph?

8 THE INTERPRETER: (Complies.)

9 BY MR. PURPURA:

10 Q Did you read it?

11 A Yes, sir.

12 Q Now, did Mr. Hernandez have a source, independent source
13 of supply, known as Mr. Pelon?

14 A I did not meet that guy. I only -- he was asking me to
15 accompany him once, and I so I saw him, but those are Isaac's
16 words.

17 Q So what I'm asking you is, Mr. Hernandez had an
18 independent source of marijuana who is not connected to any
19 cartel, and that was Mr. Pelon, correct?

20 A I don't know what kind of relationship he had with Pelon.
21 I don't know what kind of business they did.

22 Q Well, you know that Mr. Pelon was supplying cocaine and
23 it was being shipped by UPS, United Parcel Service, isn't that
24 correct, sir?

25 A I don't know Pelon. I don't know what he does.

1 Q Do you remember telling the agents that Galvan received
2 six kilograms of cocaine from Mr. Pelon, which was shipped
3 Dayton, Ohio? And in particular, that Pelon was the source of
4 supply for this cocaine?

5 A I've never had any dealings with Pelon.

6 Q Do you remember telling the agents that Hernandez and you
7 received the six kilograms of cocaine which was being sent by
8 UPS? Do you remember that?

9 A No, I do not remember.

10 MR. PURPURA: Page 142.

11 I'm sorry. I apologize. It is a lengthy paragraph,
12 but if you could just start reading the first two sentences?

13 THE INTERPRETER: (Complies.)

14 Just the first two sentences, right, counsel?

15 MR. PURPURA: I apologize. I did say Dayton, Ohio.
16 It was Daytona, Florida, my correction.

17 THE INTERPRETER: (Complies.)

18 MR. PURPURA: She read it?

19 THE INTERPRETER: Counsel, for the interpreter, just
20 the first two sentence, right?

21 MR. PURPURA: Well, I'm going to ask you to continue
22 on to -- I'll put my pen right there.

23 THE INTERPRETER: And one sentence or all the way to
24 the bottom of the paragraph?

25 MR. PURPURA: The bottom, please.

1 THE INTERPRETER: Right to the bottom? Okay.

2 (Complies.)

3 BY MR. PURPURA:

4 Q Now, sir, do you remember telling the agents about the
5 six kilograms of cocaine which was shipped by UPS that
6 actually never made it to its destination, and you and
7 Hernandez had to supply a receipt to Mr. Pelon to verify its
8 mailing?

9 A I do remember that occasion very well now. If you allow
10 me, I can explain.

11 Q No, I'll ask the questions. Thank you.

12 And you indicated to the agents that Mr. Pelon was
13 not upset about the loss of six kilos back because, in fact,
14 that's inherent when you distribute via UPS, correct?

15 A No, I did not say that to the agents. I do not know
16 Pelon.

17 Q Okay. And do you remember telling the agents that
18 Galvan -- excuse me -- that Mr. Marrufo worked for a person
19 from the town of Villa Ahumada, A-H-U-M-A-D-A?

20 A That Antonio Marrufo, Jaguar, is from Villa Ahumada.
21 He was born there, Villa Ahumada.

22 Q And do you remember telling the agents that Galvan, in
23 fact, worked for someone from that village, from that area,
24 but you didn't know the name?

25 MR. FELS: Objection as to time, please, time frame?

1 THE COURT: Overruled.

2 A Well, Galvan? I'm Galvan.

3 BY MR. PURPURA:

4 Q I'm sorry. That you learned that Marrufo worked for
5 someone from Villa Ahumada.

6 A I do not understand your question, and I don't know what
7 time you're referring to.

8 Q You don't remember the date now? Is that the issue?

9 A I don't know about that question about Villa Ahumada. He
10 was born in Villa Ahumada.

11 Q Well, let me try the question as clear as I can.

12 A Thank you, sir.

13 Q Did you tell the agents when you first meet with them,
14 that Marrufo worked drug trafficking for someone in Villa
15 Ahumada? Either you remember or you don't remember.

16 A Just like you're saying, sir, that's not how things were.

17 Q Okay. Do you remember saying that to the agents? Yes or
18 no?

19 A No, sir.

20 Q Thank you.

21 Bates stamp 147.

22 And I'd ask the interpreter, please, to read
23 starting right here. (Indicating.)

24 THE INTERPRETER: (Complies.)

25

1 BY MR. PURPURA:

2 Q Now does that refresh your recollection, sir, that you
3 told the agents on your very first proffer when you tried to
4 be truthful and honest, that you learned that Marrufo worked
5 for -- drug trafficking for someone in Villa Ahumada?

6 A I said that he was from Villa Ahumada, and that he was in
7 charge of bringing all the marijuana to Ciudad Juárez, but I
8 really ignored how he managed to get it there.

9 Q The question is, did you tell the agents that he worked
10 for someone in that village, someone other than Joaquín
11 Guzmán, someone from the village of Ahumada?

12 A No. Well, in 2004, he did not work for Chapo Guzmán.

13 Q You indicated yesterday that you listened to one phone
14 call or over one phone call, is that correct?

15 A Only one, sir.

16 Q Just one phone call?

17 A Yes, sir.

18 Q And based on hearing that one phone call, you can't
19 recognize the voices? Is that fair to say?

20 A That's fair.

21 Q And the one phone call that you overheard, you described
22 yesterday on your direct examination, is that correct, sir?

23 A I said yesterday that it was only one time that I heard a
24 call.

25 Q And that phone call involved yourself and Mr. Marrufo in

1 a car and you were going to party that night, and Mr. Marrufo
2 wanted to let -- according to you -- Joaquín Guzmán know that
3 you'd be out of touch for a period of time, correct?

4 A Yes. The thing is that he had to wake up early the next
5 day to do something.

6 Q You don't have to -- I'm just trying to quicken this.
7 Without the whole story, is that -- that's the phone call
8 we're talking about, correct?

9 A Yes, sir.

10 Q Thank you.

11 And that's the phone call where you overheard,
12 according to you, from the other side, someone saying not to
13 worry, that he was doing things right, that they were very
14 happy with him, correct?

15 A That that person was very happy with him. Correct, sir.

16 Q Very good.

17 And that's your testimony on January 7th, 2019,
18 correct?

19 A Correct.

20 Q And I'm going to take you back to when -- your first
21 proffer again, your very first proffer on November 10th, 2011.
22 Do you recall you also spoke about one phone call at that
23 time, as well. Do you remember that?

24 A Yes, sir. There's only been one phone call.

25 (Continued on the next page.)

GALVAN/CROSS/PURPURA

1 CROSS-EXAMINATION

2 BY MR. PURPURA: (Continued.)

3 Q And at that time, once you told the U.S. Attorneys and
4 the Government agents that that phone call was about the
5 temporary disconnection of phones, and it was during that
6 phone call that you learned over the phone that Chapo gave
7 Marrufo the name Jaguar on that call.

8 Do you remember telling him that?

9 A Correct, sir.

10 Q Correct.

11 Nothing -- nothing whatsoever -- about what you told
12 Government counsel and this jury about being in the car,
13 traveling, you're going to be away all night long, and Chapo
14 says, Good work, don't worry, carry on. Nothing about that,
15 right? Yes or no.

16 A At the time, only what they ask me.

17 Q So that phone conversation changed over time.

18 A No, it hasn't changed. It was only one phone call.

19 Q All right. Do you remember that you did not at all
20 reference -- strike that. It was in the weeds.

21 Showing you 149 Bates stamped --

22 MR. FELS: Objection, Your Honor. Improper.

23 MR. PURPURA: Fair enough.

24 THE COURT: Okay. Go ahead.

25 BY MR. PURPURA:

GALVAN/CROSS/PURPURA

1 Q I've asked you a couple times now whether you recall on
2 that one phone conversation back in 2011 that the only
3 discussion you allegedly overheard dealt with swapping out
4 phones and the fact that on that very phone call, Joaquin
5 Guzman gave Marrufo the nickname "Jaguar."

6 MR. FELS: Objection.

7 THE COURT: What's the objection?

8 MR. FELS: Form, Your Honor.

9 THE COURT: Simplify it, please, if you can.

10 MR. PURPURA: I'm taking -- the Court wants me to
11 move and I'm trying to.

12 THE COURT: I know.

13 MR. PURPURA: All right. All right.

14 BY MR. PURPURA:

15 Q Do you remember saying on that one phone call that
16 Joaquin Guzman gave Marrufo the nickname "Jaguar"?

17 A Yes, sir.

18 Q And do you remember on that one phone call the only thing
19 was discussed was that the phones would be down for a period
20 of time, correct? Do you remember? It's a yes or no.

21 A Your question about what?

22 Q I'll move on.

23 Not one time in any of these initial proffers when
24 the information is fresh in your mind did you ever say that
25 all the cocaine Marrufo received came from Chapo Joaquin

GALVAN/CROSS/PURPURA

1 Guzman, did you? Not once. Yes or no.

2 A I mentioned it the first time and then they did not ask
3 me again.

4 Q Not one time did you ever say in any of those initial
5 debriefings -- November 10th, 2011, through February 6th,
6 2012 -- that Chapo offered to Jaguar to be in charge of Juárez
7 and killing or cleaning out La Linea. Not once. Yes or no.
8 Not once.

9 A Only the first time.

10 Q Not once in any of those --

11 A The first time.

12 Q -- debriefings, November 10th, 2011, through
13 February 6th, 2012, did you ever tell the agents or Government
14 counsel that Marrufo was buying weapons with Chapo's money.
15 Not once.

16 A Correct, sir.

17 Q Now, based on your cooperation, the Government filed
18 what's called a 5K1.1. They filed a letter with the judge --
19 that was Judge Philip Martinez -- to reduce your sentence,
20 correct?

21 A Correct, sir.

22 Q And on June 5th, 2012, the same day that letter was filed
23 with the judge, Judge Martinez, you, in fact, were sentenced;
24 is that correct, sir?

25 A Yes, sir.

Denise Parisi, RPR, CRR

GALVAN/CROSS/PURPURA

1 Q And you have in that 5K1.1 letter that we just spoke
2 about, that's where the Government tells the judge that you
3 cooperated and that you should receive a benefit for
4 cooperation, correct?

5 A Correct, sir.

6 Q Very good.

7 And in addition to that letter, you had the right to
8 allocute. That means you had the right to speak to His Honor,
9 Judge Martinez, and tell him why he should give you a small
10 sentence, no sentence, or any type of sentence, right?

11 A Yes, sir.

12 Q And you did. You spoke truly from the bottom of your
13 heart, you told the judge that you apologized, and that -- and
14 you said, the moment I ended up in jail, it changed my life,
15 you found peace and tranquility.

16 A Yes, sir.

17 Q And you said a lot more, and you said it rather
18 eloquently as well; would you agree with me?

19 A Yes, sir.

20 Q Okay. And despite the Government's filing of the 5K1 and
21 despite your eloquence, you still got sentenced to 292 months,
22 correct?

23 A Yes, sir.

24 Q And then in addition for the other counts, you received,
25 I believe, 240 months, and they were concurrent, running

GALVAN/CROSS/PURPURA

1 together, right?

2 A Yes, sir.

3 Q And for some reason, in the federal system, we talk in
4 months, but that's 24.3 years, right?

5 A Yes. Yes, sir.

6 Q That's -- in anybody's mind, that's a lot of time, right?

7 A A lot of time, sir.

8 Q Yes.

9 And what you did -- obviously, no one wants to serve
10 that type of time -- and you tried to reach out and do
11 anything you could do to help yourself, correct?

12 A No, sir.

13 Q As brought out by Government counsel, you reached out to
14 an inmate in the prison for the inmate to prepare a document
15 which you thought would help you, correct?

16 A Correct, sir.

17 Q And that document --

18 MR. PURPURA: May I? Thank you. It's for witness
19 only, please, Defense Exhibit 414.

20 BY MR. PURPURA:

21 Q This is the document we are talking about; is that
22 correct, sir?

23 A Yes, the 2255, sir.

24 Q And this is your signature?

25 A Yes, sir.

Denise Parisi, RPR, CRR

GALVAN/CROSS/PURPURA

1 Q And this, regardless of who prepared it, it's filed
2 under, as we suggest, under the threat of perjury, if you are
3 not being truthful, correct?

4 A Yes, sir.

5 Q So on June 27th, 2013, you filed a 22 -- 2255 is filed,
6 correct?

7 A It was not on that date, sir.

8 Q But it was filed, correct?

9 A Yes, sir.

10 Q Actually -- I apologize. Let's take a look.

11 Do you see it's stamped --

12 MR. PURPURA: I'm sorry, this is in evidence. Did I
13 move it in, Judge? I apologize, 414 --

14 THE COURT: You did. You did.

15 MR. PURPURA: Okay.

16 BY MR. PURPURA:

17 Q 414 is now in evidence --

18 THE COURT: Wait. No, you didn't.

19 MR. PURPURA: Well, I move in 414.

20 THE COURT: Any objection?

21 MR. FELS: No, Your Honor.

22 THE COURT: Received.

23 MR. PURPURA: Thank you.

24 (Defense Exhibit 414 received in evidence.)

25 (The above-referred to exhibit was published.)

GALVAN/CROSS/PURPURA

1 BY MR. PURPURA:

2 Q Do you see the stamp which is stamped in by the United
3 States Clerk?

4 A Yes, sir.

5 Q And the date is June 27th, 2013, correct?

6 A Yes, sir.

7 Q And in that document, what's claimed is that your lawyer
8 was ineffective, right?

9 A That's what I told the person who helped me do the
10 appeal.

11 Q In addition, you actually claim in there that you were
12 actually innocent.

13 A No, sir.

14 Q Showing you page 4.

15 The petitioner contends but for counsel's error --
16 meaning your lawyer's error -- he would have timely appealed
17 his 24-year sentence as unreasonable, comma, he -- meaning
18 you -- was actually innocent.

19 Do you see that?

20 A Yes. I only saw that paper four days ago.

21 Q All right. But you didn't -- you never looked at it,
22 you're saying, the paper that was filed on your behalf, right?

23 A I never read it. I only signed it.

24 Q And --

25 A -- because it was --

GALVAN/CROSS/PURPURA

1 Q Thank you.

2 A -- because you had a year only.

3 Q Very good.

4 Since you didn't read it, this person just made that
5 up that you were actually innocent? Did he make it up or not?
6 Yes or no.

7 THE INTERPRETER: Your Honor, would you like for the
8 interpreter to interpret what the witness said or --

9 THE COURT: Well, he did ask him a "yes" or "no"
10 question, so we can get an answer.

11 A What was the question again?

12 Q That the person who wrote this petition for you made that
13 up that you were innocent. Yes or no.

14 A Yes, sir.

15 Q And in the petition, you claim, through this person, that
16 your lawyer was completely ineffective, right?

17 A Correct, sir.

18 Q But you recall when you entered your guilty plea, the
19 judge asked you a series of questions -- that's Judge Martinez
20 in Texas -- asked you a series of questions about your lawyer,
21 right?

22 A Yes, sir.

23 MR. PURPURA: Bates stamp 027, counsel.

24 Your Honor, at this point, I would just move in a
25 portion of the colloquy between Judge Martinez and Mr. Galvan.

GALVAN/CROSS/PURPURA

1 This is without objection, Your Honor, and it's Exhibit
2 No. 423.

3 THE COURT: Received.

4 (Defendant's Exhibit 423 received in evidence.)

5 (The above-referred to exhibit was published.)

6 BY MR. PURPURA:

7 Q Judge Martinez took his time and asked you a lot of
8 questions, didn't he?

9 A Correct, sir.

10 Q Actually, I believe that proceeding was in English,
11 correct?

12 A Yes, sir.

13 Q Because you can speak English, correct?

14 A Yes, sir.

15 Q And the Court said, "Mr. Galvan, I need to ask you a few
16 questions about your relationship with your lawyer. Are you
17 completely satisfied with the assistance that Mr. Schydlower
18 has provided to you in this case?" And your response was
19 what? Say it.

20 A "Yes, Your Honor."

21 Q Okay. And the Court also asked you, "At this time, do
22 you have any complaints of any kind or nature about anything
23 that Mr. Schydlower has done or that you believe he has failed
24 to do?" and your response was, "No, Your Honor."

25 A Correct, sir.

GALVAN/CROSS/PURPURA

1 Q Meaning, he was asking you, do you have any problems with
2 your lawyer, and you said no, you're satisfied with him,
3 right?

4 A Yes. At that time, I was.

5 Q And then the judge goes on to say, "Okay. This is the
6 only opportunity you have to tell me about any such concerns
7 or complaints before we actually get to the plea part of the
8 hearing. Are there any issues of concern to you?" and your
9 response was, "No, Your Honor," right?

10 A Correct, sir.

11 Q At that point, if you had any issues about your lawyer,
12 such as, I didn't get the indictment, he never reviewed
13 discovery with me, he never came to visit me, anything, the
14 judge was asking you, do you have any complaints, right?

15 A Correct, sir.

16 Q And then when you or your jailhouse lawyer files for you
17 the 2255, you basically try to throw the lawyer under the bus,
18 right?

19 A Yes, sir.

20 Q I didn't get discovery, he didn't review anything with
21 me, I didn't even get a copy of the indictment.

22 A I was angry at my lawyer because of the sentence that I
23 had gotten.

24 Q Fair enough.

25 And so because of your anger, you lied.

GALVAN/CROSS/PURPURA

1 A No. I said that he had promised me 17 years -- 17 years
2 or less, and that's what I told the person who was helping me
3 with that application.

4 Q And when the judge asked you at your sentencing, has
5 anyone made any promises as to what your sentence is going to
6 be, your response was, "No, Your Honor," correct?

7 A Correct, sir.

8 Q And you were under oath then as you are today, correct?

9 A Correct, sir.

10 Q Your 2255 was summarily dismissed, correct?

11 A Yes, sir.

12 Q October 31st, 2014, right?

13 A Yes, sir.

14 Q Thank you.

15 You were given the opportunity to file a belated
16 appeal, as you testified to, but apparently that was never
17 filed, or was an Anders brief, if you know what that means.

18 A I don't know what that is.

19 Q All right. Fair enough.

20 Then you didn't give up -- at that point, you did
21 your own filing, what's called a pro se filing, and now you
22 want all the documents your attorney had, correct?

23 A Yes, sir.

24 Q And that was filed with the Court on April 17th -- excuse
25 me, excuse me -- August 10th, 2015; does that sound right,

Denise Parisi, RPR, CRR

GALVAN/CROSS/PURPURA

1 sir?

2 A More or less, yes.

3 Q Thank you.

4 That went nowhere as well, correct?

5 A No.

6 Q You still didn't give up because there was a change in
7 the United States guidelines.

8 Do you remember that?

9 A Yes, sir.

10 Q And you filed on your own what's called a motion for
11 modification of sentence, right?

12 A To modify the sentence?

13 Q Yes.

14 A That was because of the new law that they had passed
15 about the two points. I wanted to know if I would get credit
16 for that.

17 Q You asked the judge in your own writings to give you
18 credit based on this new law to reduce your sentence by at
19 least two points so you can get some time off your sentence,
20 right?

21 A Yes. A friend of mine helped me fill it out.

22 Q Okay. And --

23 MR. PURPURA: May I have 408, please?

24 BY MR. PURPURA:

25 Q Showing you --

GALVAN/CROSS/PURPURA

1 MR. PURPURA: Just for the witness, please.

2 BY MR. PURPURA:

3 Q -- defense 408. Does this appear to be your motion for
4 modification which was filed?

5 A (No verbal response.)

6 Q Let me show you the signature page, too.

7 A Yes, sir.

8 Q So this is the motion you filed with the help of another
9 inmate September 8th of 2015?

10 A Yes, sir.

11 Q I apologize. This is August 19th, 2015, correct?

12 A Correct.

13 Q And in that motion, you even told the judge how well you
14 were doing, correct?

15 A I don't remember what I said exactly.

16 Q Fair enough.

17 MR. PURPURA: Your Honor, at this time, I would move
18 in Defendant's Exhibit 408.

19 MR. FELS: No objection.

20 THE COURT: Did you say no objection?

21 MR. FELS: No objection.

22 THE COURT: Received.

23 (Defendant's Exhibit 408 received in evidence.)

24 (The above-referred to exhibit was published.)

25 BY MR. PURPURA:

Denise Parisi, RPR, CRR

GALVAN/CROSS/PURPURA

1 Q Page 4 of the motion: Specifically during his period of
2 incarceration, meaning you, Galvan, has signed up to
3 participate in different classes, programs, which are designed
4 to reduce recidivism as well as great importance as to
5 Galvan's post sentencing conduct.

6 Do you remember saying those things?

7 A Yes, sir.

8 Q And you said more and I believe it was heartfelt, right?
9 You were telling the judge you were doing everything you could
10 do, correct?

11 A Correct.

12 Q And, again, because you wanted to reduce your sentence;
13 you wanted to get out from under the 24.3 years, right?

14 A I wanted to know if the two points that had been credited
15 because of the new law, if they would benefit me.

16 Q And what happened was the judge denied -- Judge
17 Martinez -- denied your motion, right?

18 A Yes, sir.

19 Q And that was February 8th, 2016.

20 A Yes, sir.

21 Q So at that point -- strike that.

22 At that point, all your efforts, your 5K1, your post
23 conviction, your 2255, you're appeal, they were all gone.

24 A Correct, sir.

25 Q And what every inmate knows, they know what their release

GALVAN/CROSS/PURPURA

1 date is.

2 A Correct, sir.

3 Q And your release date is February 3rd, 2032, correct?

4 A Correct, sir.

5 Q And back in February 2016, when that motion was denied
6 and -- well, you had 16 years left to serve, correct?

7 A Correct, sir.

8 Q And to your knowledge, there was no other motions left
9 available to you.

10 A Correct.

11 Q All you had was time to do.

12 A Yes, sir.

13 Q And it's terrible, isn't it?

14 A Yes, sir.

15 Q But then, as if a gift from the gods -- with a small
16 "G" -- Government counsel found you in the Bureau of Prisons.

17 A Yes, they sought me out.

18 Q And actually one of the attorneys in this courtroom,
19 maybe not at table, but in this courtroom, came down and
20 interviewed you, do you remember that, in the Bureau of
21 Prisons, May 13th, 2016?

22 A Yes, I remember that they came to see me.

23 Q And they wanted to talk about Chapo, right?

24 A Correct, sir.

25 Q And for the very first time, never spoken before by you,

GALVAN/CROSS/PURPURA

1 what you tell them is that Marrufo told you that he had to pay
2 \$3 million a month to this man, Chapo Guzman, for the Juárez
3 drug trafficking, 3 million a month. That's what you told the
4 U.S. Attorneys, correct?

5 A Correct.

6 Q You never mentioned that before in any of those other
7 debriefings, correct?

8 A Correct.

9 Q You didn't even mention it on your direct examination
10 when Government counsel had you on the witness stand
11 yesterday, did you?

12 A I did not mention it yesterday.

13 Q Because you weren't asked that either, were you?

14 A Correct, sir.

15 Q Because it's so incredible that no one's going to believe
16 it, right?

17 MR. FELS: Objection.

18 THE COURT: Sustained.

19 BY MR. PURPURA:

20 Q Did you see Marrufo giving up \$3 million a month, month
21 after month after month, while you were in Juárez?

22 A May I tell you --

23 Q No. You can answer the question "yes" or "no."

24 A Yes. One time.

25 Q A payment of \$3 million?

GALVAN/CROSS/PURPURA

1 A Yes, sir.

2 Q That you never mentioned on your direct examination when
3 counsel asked you questions, right? Correct? That you never
4 mentioned back in 2011 when you --

5 THE COURT: Mr. Purpura, we didn't get the answer
6 to the last question.

7 MR. PURPURA: I apologize.

8 A The answer was I mentioned it before.

9 THE INTERPRETER: Now the interpreter didn't get
10 your last question. Would you mind repeating it for the
11 interpreter, please?

12 MR. PURPURA: I will. Let's just go back a step.

13 BY MR. PURPURA:

14 Q Before 2016, you are suggesting that you mentioned that
15 to Government counsel.

16 A When they came to visit me starting in 2016 and onwards,
17 that's when I told them.

18 Q Right, 2016 and onwards, correct.

19 And actually, you remembered more and more about
20 Mr. Guzman as present Government counsel interviewed you from
21 January 11th, 2018, through January 6th, 2019, correct?

22 A Correct, sir.

23 Q And you know -- strike that.

24 You want this Government team to file what's called
25 a Rule 35 in your behalf, right?

Denise Parisi, RPR, CRR

GALVAN/CROSS/PURPURA

1 A Correct, sir.

2 Q Because every other attempt to get a reduced sentence has
3 failed, right?

4 A All the other ones have failed, yes, they have.

5 Q And you lied before in those other ones, right?

6 A Yes, sir.

7 Q And of course you are not going to lie now, right?

8 A It is very different here, sir.

9 MR. PURPURA: Just one or two more questions.

10 BY MR. PURPURA:

11 Q Government counsel asked you about an arrest in July of
12 2005.

13 Do you remember that?

14 A Yes, sir.

15 Q I think they said there was some marijuana in the car,
16 right?

17 A Yes, sir.

18 Q Actually, it was 550 pounds of marijuana in the car,
19 correct?

20 A Yes, sir.

21 Q You were involved in the distribution of that marijuana,
22 correct?

23 A Yes, sir.

24 Q You were the passenger in that car, correct?

25 A Yes, sir.

Denise Parisi, RPR, CRR

GALVAN/CROSS/PURPURA

1 Q You lied to the police, correct?

2 A Yes, sir.

3 Q You lied to the police because you didn't want to get
4 arrested, correct?

5 A Yes, sir.

6 Q You lied so well to the police that the charges against
7 you were dismissed, correct?

8 A Yes, sir.

9 Q Would you say you are a pretty good liar?

10 MR. FELS: Objection.

11 THE COURT: Overruled.

12 BY MR. PURPURA:

13 Q Are you a good liar?

14 A I used to be.

15 (Continued on the following page.)

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GALVAN/REDIRECT/FELS

1 MR. PURPURA: I have no further questions.

2 THE COURT: Any redirect?

3 MR. FELS: Yes.

4 MR. PURPURA: Could I just have a moment to go get
5 my stuff off here?

6 REDIRECT EXAMINATION

7 BY MR. FELS:

8 Q Good morning, Mr. Galvan.

9 A Good morning, sir.

10 Q Do you remember when defense counsel showed you
11 Government's Exhibits 71 and 415? (Exhibits published.)

12 A Yes, sir.

13 Q Be clear, is this the same person?

14 A Yes, sir.

15 Q And had you been asked by the Government years ago to
16 identify both of these photographs?

17 A Yes, sir.

18 Q And who are both of these photographs of?

19 A Jaguar, Antonio Marrufo.

20 Q Now, you were asked a number of questions about the very
21 first time that you provided an interview for -- by the United
22 States Government. Do you remember that?

23 A Yes, sir.

24 Q There are a number of things that you couldn't remember?

25 A Yes, many.

GALVAN/REDIRECT/FELS

1 Q And this interview was back in November of 2011, right?

2 A Correct, sir.

3 Q Do you remember there were some times that the defense
4 attorney had to show you portions of that report? Do you
5 remember that?

6 A Correct.

7 Q And do you remember when he asked you a question about
8 that cocaine deal, the six kilograms of cocaine? First, it
9 was Dayton, Ohio, then it was Daytona, Florida. Do you
10 remember those questions?

11 A Yes, sir.

12 Q You were talking about how this was with Isaac Hernandez?

13 A Yes, sir.

14 Q Do you remember this is before or after you stopped
15 working with Marrufo?

16 A It was months after I stopped working for Jaguar.

17 Q Months?

18 A Months.

19 Q Okay. So, this was -- you remember you testified on
20 direct that you didn't start doing cocaine -- dealing with
21 cocaine until when you met Marrufo, correct?

22 A Correct, sir.

23 Q And that's accurate, correct?

24 A Yes, sir.

25 Q And you also testified on direct that there were some

LISA SCHMID, CCR, RMR

GALVAN/REDIRECT/FELS

1 attempts to do drugs after you broke off with Marrufo or with
2 Jaguar. Do you remember that?

3 A Yes, I said that I wanted to do a couple of things, but
4 everything was going badly, and that was one of them.

5 Q That's what I was -- thank you.

6 Now, there were some other question about Jaguar and
7 whether he worked with someone in -- I think Villa Ahumada.
8 Right? Do you remember that?

9 A Yes, sir.

10 Q And do you remember -- you said you couldn't recall what
11 you said about that?

12 A Correct, sir.

13 Q And the defense attorney showed you one paragraph. Do
14 you remember that?

15 A Yes, sir.

16 Q But remind us, when you testified on direct that when you
17 first met Jaguar in 2004, he was already dealing with
18 marijuana, correct?

19 MR. PURPURA: Objection.

20 THE COURT: Sustained. Sustained.

21 BY MR. FELS:

22 Q Sir, do you remember what you told the agents back on
23 November 10th of 2011 as to the time frame as to when Jaguar
24 was working for this individual in Villa Ahumada?

25 A Yes, I remember telling them that Jaguar was from Villa

LISA SCHMID, CCR, RMR

GALVAN/REDIRECT/FELS

1 Ahumada and he lived in Juárez. He lived in Juárez,
2 Chihuahua. And that he was -- and Jaguar was in charge of all
3 the marijuana that arrived into Juárez, Chihuahua, Mexico.

4 Q And my question was, in that first initial interview, do
5 you remember the time frame that you said that Jaguar worked
6 for this person in Villa Ahumada?

7 A Yes, the year was 2004.

8 Q And do you remember on direct, you testified that you --

9 MR. PURPURA: Objection.

10 BY MR. FELS:

11 Q Okay. I'll ask it this way. In 2004, you said that
12 Jaguar was working for this person in Villa Ahumada. Could
13 you remind us, when did Jaguar start working for Chapo?

14 A In 2007.

15 Q Three years later, right?

16 A Yes, sir.

17 Q All right. Now, you mentioned on cross-examination that
18 you, in fact, talked briefly about Chapo Guzmán in your very
19 first interview, correct?

20 A Yes, sir.

21 Q Do you remember back in November 2011, was Chapo Guzmán
22 the focus of that interview?

23 A No. At that time when I mentioned him, they told me
24 everything is fine and they focus on other questions.

25 Q Okay. And do you have an opportunity when you're sitting

GALVAN/REDIRECT/FELS

1 down with the Government to say you know what? I'm going to
2 take charge. I'm going to just tell you everything about
3 everything. Don't ask me any questions. I'm just going to go
4 on?

5 MR. PURPURA: Objection.

6 THE COURT: Sustained.

7 BY MR. FELLS:

8 Q Let me ask you a more focused question. Were you asked
9 for -- to provide every piece of information about Chapo
10 Guzmán that you had back in 2011?

11 A Yes, sir.

12 Q Did you have an opportunity to go through every specific
13 detail back in 2011?

14 MR. PURPURA: Objection; asked and answered.

15 THE COURT: Overruled.

16 A No, I did not have the opportunity.

17 BY MR. FELLS:

18 Q All right. So let's go back now to 2016 or go forward
19 five years to 2016. Sir, did the Government reach out to you
20 or did you come to the Government and say, oh, I've got
21 information on Chapo?

22 A No. I was doing my time in Phoenix when they sent for
23 me, when the agents say that they wanted to speak to me. So
24 it was them who looked for me.

25 Q Now, you remember questions about being asked during your

GALVAN/REDIRECT/FELS

1 plea colloquy about whether you were happy with your lawyer.

2 A Correct, sir.

3 Q And I think you testified on direct that your concern or
4 your frustration with your lawyer was because you got
5 sentenced to more time than you had expected?

6 A I remember very well that -- to the person who did the
7 legal papers in prison, I mentioned to him that the lawyer had
8 sold me out, that he had lied to me because he had said that I
9 would get 17 years or less, which is what Rudy has gotten.

10 Q Right.

11 A That I was going to receive less time than Rudy.

12 Q That's what I'm talking about. Your issues with him were
13 not about your plea. It was about your sentence, correct?

14 A Yes. I was upset because I had been given 24 years and I
15 had been expecting way less.

16 Q Which happens first, your plea or your sentencing?

17 A My plea.

18 Q And so at the time of your plea, you hadn't yet been
19 frustrated about your sentence, correct?

20 MR. PURPURA: Objection.

21 THE COURT: Sustained.

22 BY MR. FELLS:

23 Q At the time you were asked these questions about whether
24 you were satisfied with your lawyer at your plea colloquy, you
25 didn't yet know what your sentence was, correct?

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GALVAN/REDIRECT/FELS

1 A No. I had all my trust on my lawyer and I believed
2 everything he had told me.

3 Q So when you were asked those questions about whether you
4 had any problems with your lawyer at your plea and you said
5 no, that was truthful, correct?

6 A Yes. At the time, I had a lot of trust in him.

7 Q And as you've testified on both direct and cross, you
8 never read this letter, this 2255, correct, until a few days
9 ago?

10 A Yes. I only signed it that day, and he told me, sign it
11 right away because it is already expired and I have to -- I
12 have to put the day of one year exactly from the previous day.
13 And just that trust in me. We have to send it right away.

14 So the only thing I did was sign it, and he took it
15 upon himself to send it by mail.

16 Q Sir, you remember you were asked whether you've lied
17 before, and you said yes?

18 A Yes, sir.

19 Q And then you started to say, "But I'm not lying now," but
20 you weren't able to get your answer?

21 MR. PURPURA: Objection.

22 THE COURT: Well, I don't know if I heard a question
23 yet.

24 BY MR. FELS:

25 Q The question is, why aren't you lying now? Why wouldn't

GALVAN/REDIRECT/FELS

1 you lie now?

2 A It is completely different now. Now, well, at the time,
3 there are many reasons why I'm here to tell the truth. First
4 of all, I have to tell the truth because if I don't, my
5 agreement is torn apart, and I'll have to face what I was
6 facing before, which is life.

7 If I were to lie now, all my benefits, go to the
8 trash. So I have to tell the truth now. I don't know how
9 long -- the Government hasn't promised me how long they are
10 going to take away from me. The Government has not promised
11 me anything. And I agreed with that because it is something
12 that I want to do for myself.

13 When I was arrested in 2011, my girl was 13 years
14 old.

15 MR. PURPURA: Objection. It's a little --

16 THE COURT: No, it was a proper broad question. He
17 can finish his answer.

18 A My girl, my daughter was at the time 13 years old. And
19 she would always ask me, "Dad, when are you coming?" And I
20 would tell her, "Soon."

21 She's 21 now. When she was 18, she found out who
22 her dad was. So she doesn't speak to me anymore. So I
23 want that in the future, I want my daughter to know that I did
24 the right thing, and that I'm being as truthful as possible,
25 so that tomorrow, she might be -- she will be proud of me.

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GALVAN/REDIRECT/FELS

1 So I'm doing it to clean my image and to be a better
2 person. That is why I am not lying now.

3 THE COURT: All right. If you're not done, we need
4 to take a break.

5 MR. FELS: I'm finished, Your Honor.

6 THE COURT: Okay. Let's take a break.

7 If you want recross, we'll talk about it when we get
8 back.

9 Let's take our 15 minute break, ladies and
10 gentlemen, 11:20.

11 (Jury exits.)

12 THE COURT: Mr. Fels, sorry to have interrupted you.
13 One of the jurors really needed a break right away.

14 Let me just mention to the parties that, you know,
15 going forward, remember if you file something under seal, you
16 need to file a redacted version publicly, and in that public
17 version, please set forth the basis that you want me to find
18 to determine that, in fact, the sealing was proper. Okay?

19 All right. 11:20.

20 MR. BALAREZO: Your Honor? If the Court is
21 referring to the Docket 537 from the Government's disclosure
22 --

23 THE COURT: I wasn't referring to just that.
24 There's a lot.

25 MR. BALAREZO: I did file an objection to the

LISA SCHMID, CCR, RMR

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1 sealing in general.

2 THE COURT: I've seen that.

3 MR. BALAREZO: Thank you.

4 THE COURT: 11:20.

5 (Recess.)

6 THE CLERK: All rise.

7 THE COURT: All right. Please bring in the jury.

8 This will be brief, Mr. Purpura?

9 MR. PURPURA: (Nods head affirmatively.)

10 (Jury enters.)

11 THE COURT: All right. Be seated, please.

12 Recross-examination, Mr Purpura?

13 MR. PURPURA: (Nods head affirmatively.)

14 THE COURT: You're working on it?

15 MR. PURPURA: Yeah. Thank you.

16 RE CROSS-EXAMINATION

17 BY MR. PURPURA:

18 Q Sir, briefly, if I may, yesterday on cross-examination, I
19 first put up Exhibit Number 71, and then I put up Exhibit 415,
20 and I asked you specifically, page 61, line nine, "Does it
21 appear to be the same person to you?"

22 And your answer, line ten, is, "He looks different."

23 They do look different, is that correct, sir? Yes
24 or no?

25 A It is the same person, but they look different.

LISA SCHMID, CCR, RMR

GALVAN/RE CROSS/PURPURA

1 Q Now, what, you said that Mr. Marrufo is in prison,
2 correct?

3 A Yes, sir.

4 Q When did he go to prison?

5 A After I was arrested.

6 Q And you were arrested in 2011, correct?

7 A Yes, sir.

8 Q So how soon after you were arrested?

9 A I don't remember the date exactly, but it was about two
10 or three years afterwards.

11 Q And he -- he is -- you're 41. He's 38 years old. Is
12 that correct?

13 A I know he's younger than I am.

14 Q And he's been incarcerated for a period of time, is that
15 correct?

16 A Yes, sir.

17 Q Thank you.

18 When -- I spoke about your allocution. That's when
19 you went to the sentencing before Judge Martinez and I said
20 you spoke eloquently and you agreed with me, correct?

21 A Correct.

22 Q And would you agree with me that, again, when you were
23 asked the very last question and the effect of prison on your
24 daughter, again, you spoke eloquently, correct?

25 A Correct.

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GALVAN/RE CROSS/PURPURA

1 Q And when your daughter was a little girl, you were
2 dealing cocaine, correct?

3 A I was doing drug trafficking.

4 Q Cocaine, correct?

5 A In 2009.

6 Q So she was a young girl and you're dealing cocaine,
7 correct?

8 A Yes.

9 Q Large scale marijuana, correct?

10 A Yes.

11 Q You obtained weapons, correct?

12 A Yes, sir.

13 Q For the attempted murder of Freddy while your daughter
14 was still a young little girl, you obtained a gun with a
15 silencer, correct?

16 A My girl has never lived with me.

17 Q Whether she lived with you or not, during that time
18 period, you obtained a gun with a silencer, correct?

19 A Correct, sir.

20 Q For the attempted murder, for the contemplated murder of
21 Freddy, correct?

22 A Correct, sir.

23 Q And again, when I said you spoke eloquently at
24 sentencing, you even told the judge that -- Judge Martinez --
25 at sentencing that you were born again, and you want to ask

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1 Your Honor to give you a second chance to prove to the United
2 States I can do a lot of good things. That was back before
3 Judge Martinez gave you 23 years, 24 years, correct?

4 A Correct, sir.

5 Q And then, after you got that sentence, as we discussed
6 before, you did file or had filed for you the 2255, the
7 post-conviction, correct?

8 MR. FELS: Objection; outside the scope.

9 THE COURT: Sustained. Well, not outside the scope,
10 but we're repeating your cross.

11 MR. PURPURA: Just it does fit in, if you just give
12 me a --

13 THE COURT: I'll give you a couple of questions.

14 MR. PURPURA: Thank you.

15 BY MR. PURPURA:

16 Q Page five. And after you told that judge that you were
17 born again and all those promises, this 2255 petition, as you
18 suggested before, has a lot of lies in it, right?

19 A Correct, sir.

20 Q And as Government counsel brought up, you indicated you
21 were unsatisfied with the sentence, correct?

22 A Correct, sir.

23 Q But what he's saying is that you have never had the
24 opportunity to see your indictment? Correct?

25 A That's what he wrote.

LISA SCHMID, CCR, RMR

GALVAN/RE CROSS/PURPURA

1 Q That's a lie, signed by you, right?

2 A Yes. When I signed it, I didn't read any of those
3 papers.

4 Q Now, you want to get home. Fair to say?

5 A Yes, sir.

6 Q And there are a lot of people in prison with you that
7 have families, correct?

8 A Correct, sir.

9 Q And those people share your same feelings. They want to
10 get home, too, correct?

11 A Of course, sir.

12 Q But for whatever reason, Judge Martinez felt that the 24
13 year sentence for you was a proper sentence, correct?

14 MR. FELS: Objection.

15 THE COURT: Sustained.

16 BY MR. PURPURA:

17 Q And your only ability now to get home before 2032,
18 February, is to through a Rule 35, correct?

19 MR. FELS: Objection.

20 THE COURT: Sustained.

21 BY MR. PURPURA:

22 Q In 2011, you indicated that you were answering some
23 questions, and you answered those questions during your first
24 proffer, correct?

25 A Correct, sir.

LISA SCHMID, CCR, RMR

GALVAN/RE CROSS/PURPURA

1 Q And in essence when the Government -- or when you started
2 talking supposedly about Mr. Guzmán, the Government and the
3 DEA said, that's okay. We don't need anymore?

4 MR. FELS: Objection.

5 MR. PURPURA: It was brought up in --

6 THE COURT: It's beyond the scope. It doesn't quite
7 characterize what he said, but he can say whether it does or
8 not.

9 THE WITNESS: And what was the question exactly?

10 MR. PURPURA: I knew you'd have a problem with that.

11 BY MR. PURPURA:

12 Q You indicated that you gave some information about
13 Joaquín Guzmán Chapo in 2011, correct?

14 A Yes, I mentioned him at the first meeting.

15 Q And basically, what your testimony was that the agents
16 and/or the Government said everything's fine. You don't have
17 to go into that, correct?

18 MR. FELS: Objection.

19 THE COURT: I'll let him answer.

20 A Not that he was just fine. They just started asking
21 questions and questions and they just stopped asking me about
22 Chapo.

23 MR. PURPURA: Nothing further, thank you.

24 THE COURT: Anything else?

25 MR. FELS: Nothing, Your Honor.

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1 THE COURT: All right. Ladies and gentlemen, we
2 need to adjust the courtroom, and I'm going to send you into
3 the jury room for three or four minutes, and then we'll be
4 right back to you. So stay loose.

5 (Jury exits.)

6 THE COURT: All right. Be seated.

7 The Marshals can remove the witness.

8 And what's the Government doing next?

9 MS. GOLDBARG: We have two exciting stipulations to
10 read, and then our next witness.

11 THE COURT: Oh. Okay. Are we going have to clear
12 the courtroom out again?

13 MS. GOLDBARG: No, Your Honor. It's law
14 enforcement.

15 THE COURT: All right.

16 (Pause in proceedings.)

17 (Jury enters.)

18 THE COURT: All right. Everyone be seated.

19 How would the Government like to proceed?

20 MS. GOLDBARG: Your Honor, at this time, the
21 Government would ask to read into the record two stipulations,
22 and to make it easier, I'd ask to have them published on the
23 Elmo while I read it.

24 THE COURT: Okay. That's fine. The only thing I
25 would ask is instead of reading the whole preamble, just say,

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1 "The parties through their attorneys have agreed as follows."

2 MS. GOLDBARG: Thank you. I will do that.

3 I would first like to publish to the jury without
4 objection, I believe, Government Exhibit 1001.

5 THE COURT: All right. That's received.

6 (Government Exhibit 1001 was received in evidence.)

7 MS. GOLDBARG: All the parties agree and stipulate
8 to the following. The following Government's exhibits,
9 209-37T, 212-10T, 301A-T, 30B -- I'm sorry. 301B-T, 601F-1T
10 through 601F-9LT, 606-I-1AT through 606-I-3HT, 219-15T,
11 610N-5T, 610N-6T, 706T-1 through 706T-3, are true and accurate
12 transcriptions of Spanish and/or translations from Spanish to
13 English of the corresponding exhibits: 201-37T, 212-10T,
14 301A-T, 301B-T, 601F-1T through 601F-9LT, 606-I-1AT through
15 606-I-3HT, 219-15T, 610N-5T, 610N-6T, 706T-1 through 706T-3,
16 respectively.

17 Government's Exhibits 209-37T, 212-10T, 301A-T,
18 301B-T, 601F-1T through 601F-9LT, 606-I-1AT through 606-I-3HT,
19 219-15T, 610N-5T, 610N-6T, 706T-1 through 706T-3, as well as
20 the stipulation are offered into evidence without objection as
21 evidence at trial.

22 THE COURT: All right. That's received. The number
23 of exhibits are received.

24 MS. GOLDBARG: And there's an even shorter one, Your
25 Honor.

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1 THE COURT: Okay.

2 MS. GOLDBARG: This is Government Exhibit 1002, I
3 believe also without objection: All the respective parties
4 agree and stipulate that paragraph one, Government's Exhibit
5 605C-4T, 605C-5T, 605C-6T, and 605C-7T are true and accurate
6 transcriptions of Spanish, and/or translations from Spanish to
7 English of the corresponding exhibits: 605C-4T, 605C-5T,
8 605C-6T, and 605-7T, respectively.

9 Last paragraph, Government's Exhibit 605C-4T,
10 605C-5T, 605C-6T, and 605C-7T, as well as the stipulation are
11 offered in evidence without objection as evidence at trial.

12 THE COURT: All right. The stipulation and the
13 referenced exhibits are also received.

14 Next?

15 MR. ROBOTTI: Your Honor, the Government calls
16 Stephen Marston.

17 (Witness sworn.)

18 THE CLERK: Please state and spell your name for the
19 record.

20 THE WITNESS: Stephen Marston, S-T-E-P-H-E-N,
21 Marston, M-A-R-S-T-O-N.

22 THE INTERPRETER: Excuse me, Your Honor. Could we
23 adjust the microphone, so that --

24 THE COURT: When he sits down, I'm hoping you'll
25 hear better. He's just saying and spelling his name.

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1 All right. You may inquire.

2 MR. ROBOTTI: Thank you, Judge.

3 DIRECT EXAMINATION

4 BY MR. ROBOTTI:

5 Q Are you employed?

6 A I am.

7 Q What's your present position?

8 A I'm a Special Agent with the FBI.

9 Q And how long have you been a Special Agent with the FBI?

10 A Over 18 years.

11 Q What are your current duties and responsibilities as
12 Special Agent for the FBI?

13 A I currently investigate violations associated with cyber
14 crime.

15 Q Where are you based?

16 A In New York City.

17 Q Previously, to what types of cases were you assigned?

18 A Previously, I was working narcotics-related
19 investigations.

20 Q And how long were you assigned to narcotics cases?

21 A Approximately 16, 17 years.

22 Q In general, what positions did you hold while you were
23 assigned to narcotics investigations?

24 A I was a Special Agent. I was also a Supervisory Special
25 Agent in our headquarters, where we conducted oversight over

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1 the narcotics violations, as well as the supervisor of a
2 narcotics squad.

3 Q And what does a supervisor of a narcotics squad do?

4 A Oversees the case agents -- in my case, ten to 12
5 agents -- who ran the daily investigations that they were
6 assigned.

7 Q Are you familiar with someone named Christian Rodriguez?

8 A I am.

9 Q How so?

10 A Christian was a target of our investigation back in 2009.

11 Q And during approximately what years were you
12 investigating Christian Rodriguez?

13 A From 2009 to 2011.

14 Q What was your role in this investigation?

15 A I was a Special Agent at the time, and I was one of the
16 case agents.

17 Q And what did it mean to be a case agent in this
18 particular case?

19 A As one of the case agents, you conducted the daily
20 activities of case, directing sources, following up on the
21 investigative leads. So you managed it on a daily basis.

22 Q And have you been continuously involved in this
23 investigation since it began?

24 A I have.

25 Q Why did you start investigating Christian Rodriguez?

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1 A We learned through a confidential source that Christian
2 Rodriguez has developed a secure communication platform for
3 the Cifuentes drug trafficking organization and ultimately,
4 also for the defendant.

5 Q And where was Christian Rodriguez living at this time?

6 A He was living in Colombia, in South America.

7 Q I'm going to show you what's been marked for
8 identification as Government Exhibit 94. Do you recognize
9 this? (Exhibit published to the witness.)

10 A I do.

11 Q And what is it?

12 A This is a picture of Christian.

13 MR. ROBOTTI: Your Honor, the Government offers
14 Government Exhibit 94 into evidence.

15 MR. LICHTMAN: No objection.

16 THE COURT: Received.

17 (Government's Exhibit 94 was received in evidence.)

18 BY MR. ROBOTTI:

19 Q And looking back at Government Exhibit 94, this is the
20 person you identified as Christian Rodriguez?

21 A It is.

22 MR. ROBOTTI: We're having some issues with the
23 microphones.

24 THE COURT: Are we? I'm hearing fine. It's
25 working.

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1 BY MR. ROBOTTI:

2 Q Now, directing your attention to February 3rd, 2010, what
3 if anything happened on that date with respect to Christian
4 Rodriguez?

5 A Since 2009 up until 2010, the FBI had access to some of
6 the devices that were being used in these encrypted systems.
7 Unfortunately, we're not able to infiltrate the system on our
8 own.

9 So in 2010 -- oh, excuse me. In 2010, the FBI
10 conducted a series of undercover operations targeting
11 Christian, in order to gather some intelligence regarding the
12 communications system, as well as his connection to drug
13 trafficking.

14 Q And what specifically happened on February 3rd, 2010?

15 A On February 3rd, there was a meeting at a hotel in New
16 York City, in which Christian and a cooperating witness or
17 confidential human sources for the FBI talked about the
18 procurement of equipment from Christian.

19 One of the cooperating sources was portraying his
20 role as a member of organized crime and also needed this
21 equipment to evade law enforcement protection.

22 Q And was this meeting between Christian Rodriguez and
23 these other confidential sources under surveillance?

24 A It was.

25 Q And were you involved in that surveillance?

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1 A I was.

2 Q And where was this meeting?

3 A The meeting took place at a hotel in Manhattan.

4 Q And what types of surveillance were involved in that
5 meeting?

6 A Audio recordings of the meeting, as well as a covert
7 video recording of the meeting.

8 Q And was Christian Rodriguez informed that he was being
9 recorded?

10 A He was not.

11 Q All right. I'm going to show you what's been marked for
12 identification as Government Exhibit 706A. And do you
13 recognize this? (Exhibit published.)

14 A I do.

15 Q And what is it?

16 A This is our original evidence for the recorded -- or the
17 video recorded meeting that took place in Manhattan that we
18 just spoke about.

19 Q All right. And I'd like you to show you what's been
20 marked for identification as Government's Exhibits 706B and
21 706C. And do you recognize these? (Exhibit published.)

22 A I do.

23 Q What are they?

24 A So the disk on the left, I recognize through my initials,
25 as well as the date. It's a copy of the video from the hotel

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1 meeting in February of 2010, that we just spoke about, and
2 also on the right.

3 Q All right.

4 MR. ROBOTTI: All right. Your Honor, the Government
5 offers Government Exhibit 706B and 706C into evidence.

6 MR. LICHTMAN: No objection.

7 THE COURT: Received.

8 (Government Exhibits 706B and 706 C were received in
9 evidence.)

10 BY MR. ROBOTTI:

11 Q Now, directing your attention to early 2011. What if
12 anything occurred with respect to Christian Rodriguez at that
13 time?

14 A In 2011, the decision was made to approach Christian
15 Rodriguez in an effort to get inside access to this
16 sophisticated communication system being used by the
17 defendant.

18 Q What was the status of your investigation at that time?

19 A The status was ongoing. We were trying to make access
20 into the system, but realized that without the insider access
21 to the system, we were not going to be able to get inside.

22 Q And how had the FBI been trying to gain access to the
23 system?

24 A We had access to various devices that were used on the
25 system. With those devices, in conjunction with our folks,

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1 our technical folks, we were trying to see what angles we
2 could play in order to listen to the communications of the
3 defendant and others.

4 Q And up until this point, the FBI had not been successful
5 in reaching that goal?

6 A That is correct.

7 Q So what was your ultimate goal with your approach of
8 Christian Rodriguez?

9 A We were seeking to gain Christian's cooperation.

10 Q And did this approach take place?

11 A It did.

12 Q And where was that?

13 A It also took place -- I'm sorry. It took place in
14 Colombia, South America.

15 Q And were you there for that approach?

16 A I was.

17 Q And what if anything happened as a result of your
18 approach or meeting with Christian Rodriguez?

19 A Christian agreed to proactively cooperate with the FBI.

20 Q So what does proactive cooperation mean?

21 A Proactive cooperation is when an individual actively
22 agrees to work with law enforcement essentially in an
23 undercover capacity to the folks or the individuals in which
24 they're targeting.

25 Q And going forward, were you Christian Rodriguez's

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1 handling agent?

2 A I was not.

3 Q What's a handling agent?

4 A A handling agent is a Special Agent that's assigned
5 responsibility for the direction, the administration of a
6 particular confidential human source.

7 (Continued on the next page.)

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1 BY MR. ROBOTTI: (Continuing.)

2 Q And who is the handling agent for Christian Rodriguez?

3 A One of the other case agents, Robert Potash.

4 Q Were you nonetheless involved in this proactive
5 investigation as a case agent?

6 A I was.

7 Q Who were the primary targets of this proactive
8 cooperation?

9 A The primary targets were the defendant, Jorge Cifuentes,
10 Dolly Cifuentes, Alex Cifuentes as well as Andrea Velez.

11 Q All right. So I would like to show you what's been --
12 what's in evidence as Government Exhibit 1-H.

13 (Exhibit published.)

14 Q Do you recognize the person on the left?

15 A I do.

16 Q Who is that?

17 A That is the defendant.

18 Q And the person in the center?

19 A That is Alex Cifuentes.

20 (Exhibit published.)

21 Q Showing you Government Exhibit 42, which is also in
22 evidence. Do you recognize that person?

23 A I do.

24 Q And who is that?

25 A That is Jorge Cifuentes.

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1 Q I'd like to show you Government Exhibit 40 for
2 identification. Do you recognize this person?

3 A I do.

4 Q And who is that?

5 A Dolly Cifuentes.

6 MR. ROBOTTI: Your Honor, the Government moves
7 Government Exhibit 40 into evidence.

8 MR. LICHTMAN: No objection.

9 THE COURT: Received.

10 (Government Exhibit 40 received in evidence.)

11 (Exhibit published.)

12 Q And also for identification, Government Exhibit 49. Do
13 you recognize this person?

14 A I do.

15 Q Who is that?

16 A Andrea Velez.

17 MR. ROBOTTI: Your Honor, the Government moves
18 Government Exhibit 49 into evidence.

19 MR. LICHTMAN: No objection.

20 THE COURT: Received.

21 (Government Exhibit 49 received in evidence.)

22 (Exhibit published.)

23 BY MR. ROBOTTI:

24 Q Now, for how long did Christian Rodriguez proactively
25 cooperate in this investigation?

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1 A His proactive cooperation was from 2011 into 2013.

2 Q Now, we're going to talk about this in some more detail
3 in a moment but in general what was the result of Christian
4 Rodriguez's proactive cooperation?

5 MR. LICHTMAN: Objection, overbroad.

6 THE COURT: No, overruled.

7 Q Go ahead.

8 A The FBI was able to get inside access to the encrypted
9 communication system being used by the defendant.

10 Q And what, if anything, did the FBI obtain as a result?

11 A We obtained calls that were transiting through that
12 system.

13 Q And what else if anything aside from calls did the FBI
14 obtain?

15 A We obtained calls as well as some messages as well.

16 Q Would those be text messages?

17 A They would.

18 Q So let's talk about how the FBI got these calls and text
19 messages. Beginning in early 2011 did you come up with a plan
20 for Christian Rodriguez's proactive cooperation?

21 A We did.

22 Q And did Christian Rodriguez's role within the cartel
23 inform that plan?

24 A It did.

25 Q And what was your understanding of his role at that time?

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1 A Christian developed a system that was being used by the
2 defendant and his associates. He had also trained some of the
3 defendants' associates to run the daily activities of the --
4 of the system. He still had access and was routinely asked to
5 help with upgrades or problems that they were having with this
6 system.

7 Q And did your understanding of the cartel's communication
8 system at that time inform your plan?

9 A It did.

10 Q And what was that understanding?

11 A The way the system worked was the communications were
12 through the internet and worked with something called
13 encryption such that without special keys, even if you could
14 in fact grab the communications you would not be able to
15 listen to what was inside the actual communications
16 themselves.

17 Q Did you have an understanding of the location of the
18 communication system at the time of early 2011?

19 A Yes.

20 Q And how if at all did that affect your plan going
21 forward?

22 A The decision was to try to get the communication system
23 over to a favorable location for the FBI such that we can one,
24 get insider access; again, referring back to the keys. If we
25 could have those keys we could in fact decrypt the

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1 communications.

2 Q Okay. And at this time in early 2011 where was the
3 system located?

4 A It was located in Canada.

5 Q And what was your plan going forward?

6 A The plan going forward was to move the servers that
7 housed the communication system to the Netherlands. At that
8 time when they would be moved, Christian would have access to
9 the new keys as they were being configured which he would then
10 provide to the FBI.

11 Q Why did you believe that moving the servers to the
12 Netherlands would be advantageous to the FBI?

13 A We had a longstanding law enforcement relationship with
14 the Dutch as well as it would not be suspicious to the Sinaloa
15 Cartel associates that were helping with the daily activities
16 of the system. It was a location that they were also okay
17 with.

18 Q And you mentioned a couple of times encryption now.
19 What's encryption?

20 A Encryption is a layer of security that is placed on
21 communications. The best way to describe it would be having a
22 package that you're sending through the mail and you could put
23 a blanket around it and have a special key, a key that's just
24 unique to you that's very, very difficult for anybody else to
25 fabricate. So even if law enforcement or somebody took that

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1 package, they would just not be able to open it. So it's --
2 that's just kind of the generic description of encryption.

3 Q You mentioned that when you moved the servers to the
4 Netherlands you believed you would be able to obtain the key
5 from Christian Rodriguez?

6 A That is correct.

7 Q So why didn't you just direct Christian to put the
8 servers in the United States?

9 A The -- we would have preferred to put them in the United
10 States. Unfortunately it would have been very suspicious to
11 the individuals, the defendant and the defendant's workers,
12 that were managing the system on a daily basis. It is
13 well-known that U.S. law enforcement is very aggressive in
14 pursuit of drug trafficking --

15 MR. LICHTMAN: Objection, Judge.

16 THE COURT: Well, overruled.

17 Q So for that reason you believe it would be suspicious to
18 put the servers inside the United States?

19 A That is correct.

20 Q So how many servers did Christian Rodriguez set up
21 initially in the Netherlands?

22 A There were three servers.

23 Q And what types of servers were these in general?

24 A Two of the servers carried voice communications and one
25 was electronic.

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1 Q What types of voice communications?

2 A They're referred to as VOIP.

3 Q What's VOIP?

4 A VOIP is Voice Over Internet Protocol. It stands for
5 being able to communicate on your phone and translating that
6 information instead of through a telephone company transmit it
7 in a way through protocols on the internet so that voice is
8 broken down into a bunch of little packets of data. It's sent
9 out over the internet and whoever you're talking to receives
10 that data where it's reassembled and you hear what they said.

11 Q How are these servers identified in the Netherlands?

12 A They're identified through something called an IP
13 address.

14 Q What's that?

15 A IP stands for Internet Protocol. It would be an
16 equivalent on the internet to having a mailing address. It's
17 designed so people or devices can find each other on the
18 internet.

19 Q Are you familiar with what's known as a Mutual Legal
20 Assistance Treaty or MLAT request?

21 A I am.

22 Q What's that?

23 A An MLAT is a formal agreement between countries that
24 enables for the sharing of information and evidence as well as
25 requesting information and evidence. It's oftentimes used in

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1 transnational criminal -- transnational investigations.

2 Q And who submits that request to a foreign country on
3 behalf of the United States?

4 A The Department of Justice.

5 Q Did the FBI request the Department of Justice to submit
6 an MLAT request in this case?

7 A We did.

8 Q And to whom?

9 A To the Dutch.

10 Q What specifically did the FBI request the Dutch
11 authorities to do through this MLAT process?

12 A We requested the Dutch intercept the communications that
13 were transited through the servers.

14 Q Was that a judicial wiretap authorized by a judge?

15 A It was.

16 Q When did the Department of Justice submit the first MLAT
17 request to Dutch authorities in this case?

18 A It was April of 2011.

19 Q And at some point did the Dutch respond to that MLAT?

20 A They did.

21 Q And what did they provide in response?

22 A They provided the calls that were transiting through the
23 servers.

24 Q And were these VOIP calls?

25 A They were.

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1 Q And did the Dutch provide any text messages from these
2 three servers?

3 A There were never text messages that were received.

4 Q Now, through your investigation and review of these
5 communications provided by the Dutch were you able to
6 determine how the servers worked?

7 A We were.

8 Q In general could you explain how phone calls were sent
9 through these servers in the Netherlands?

10 A Certainly. The -- when a call was going to be placed, an
11 individual would have two options. One was a -- an internal
12 closed system equivalent to calls within an office space and
13 the second was an ability to dial an outside line like hitting
14 9 in your office and dialing an outside extension. So there
15 were two versions.

16 Q All right. And we'll talk about that in a moment but
17 just in general were you able to determine where these phone
18 calls were being made to and from?

19 A We were.

20 Q How so?

21 A The -- through either the content of the communications
22 as well as the phone numbers associated or the exterior phone
23 numbers, the phone numbers that it captured.

24 Q And when you say you were able to determine that based on
25 the phone numbers, what specifically about the phone numbers

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1 told you that?

2 A The country codes that were called.

3 Q And what country was that associated with?

4 A Mexico.

5 Q And so is it your understanding that these calls were
6 being made from Mexico and being piped through the server in
7 the Netherlands?

8 A That is correct.

9 Q And describe how that worked in general.

10 A The communications -- when somebody would use their phone
11 they would type in a phone number, the communications, as we
12 talked about before, leveraged the VOIP. So it would break
13 down into bits of data. It transits to the server in the
14 Netherlands which decides where that call is going to go and
15 routes it. The server acts as a switchboard but this happens
16 within seconds.

17 Q So you were speaking a moment ago about the two different
18 types of phone calls or networks on the server. Could you
19 break that down for us?

20 A Sure. There are two types of calls as we talked to
21 earlier; the internal equivalent to an office setting where
22 you would dial an extension and it never leaves -- it never
23 leaves the office. It stays within that computer system, if
24 you will. The second would be the ability to dial 9 and
25 getting an outside line.

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1 Q And these extensions how many digits were those?

2 A Three digits.

3 Q So to reach another user on the internal network you
4 would dial that three-digit extension?

5 A That's correct.

6 Q And how would someone reach an external phone number?

7 A I don't know the exact mechanism. However, essentially
8 you're going to put in the phone number that you want to
9 connect to.

10 Q Could an external phone number like a cell phone user
11 dial into the system?

12 A It did not have the ability for anybody to dial into the
13 system.

14 Q So approximately when did you start receiving the first
15 set of intercepted calls from the Dutch servers?

16 A April of 2011.

17 Q And how did Dutch law enforcement authorities provide the
18 intercepted calls to the FBI?

19 A They provided them automatically and the communications
20 were still in their encrypted status.

21 Q And how long after the calls were made did the FBI
22 receive them?

23 A Within days, a day or two.

24 Q During 2011 how many MLAT requests did the Department of
25 Justice make to Dutch authorities for the wiretapping of these

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1 servers?

2 A A total of ten.

3 Q And why did the FBI make supplemental requests following
4 this initial MLAT in April of 2011?

5 A Dutch laws as signed off by the judge required them to be
6 reviewed every 30 days.

7 Q And so ultimately during what time period did you receive
8 calls for?

9 A April 2011 to the beginning of January 2012.

10 Q And at that point beginning -- end of 2011, early 2012,
11 did you stop making requests for the interception of these
12 servers?

13 A We did.

14 Q Why?

15 A The defendant stopped using the system in the summer of
16 2011 and the call volume went down significantly thereafter.

17 Q Now, during this time period did the FBI also receive
18 calls by means other than through the Dutch MLAT process?

19 A We did.

20 Q How so?

21 A We also conducted a search warrant towards the end of or
22 in September of 2011, as well as we received e-mails with --
23 from our source, Christian, that also contained some of the
24 calls that were in the server.

25 Q Did Christian e-mail these calls on his own or was he

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1 directed to do that?

2 A He was directed.

3 Q And when did he send those e-mailed calls?

4 A It was prior to -- it was March -- March and April of
5 2011 and then again in June and July of 2011.

6 Q And then in the first time period what was going on with
7 the e-mailed calls?

8 A The servers were being established in the Netherlands at
9 that time.

10 Q And June and July of 2011 what was happening at that
11 point?

12 A The FBI recognized that we were not receiving all the
13 data that was transiting through the servers.

14 Q You mentioned before that Christian Rodriguez was located
15 in Colombia. How was he accessing these servers in the
16 Netherlands?

17 A Remotely.

18 Q Okay. And was this also a lawful means of obtaining
19 these calls from the server?

20 A It was.

21 Q Why didn't you just have Christian Rodriguez e-mail all
22 the calls to you?

23 A In consultation with the Department of Justice, the
24 preferred method was to pursue the MLAT as we prior talked
25 about with our Dutch partners.

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1 Q So why didn't FBI agents access the servers directly and
2 download the calls instead of having Christian Rodriguez do
3 it?

4 A Christian had trained some of the defendant's associates
5 to handle the daily activities of the communication server.
6 As such, they were -- they had access, as did Christian, and
7 were aware or could be aware of any of the activities that
8 were happening in the servers. As such, we did not want to
9 leave a footprint from the FBI within those servers that could
10 be found and essentially alert them to the presence of law
11 enforcement.

12 Q Were there any technological difficulties during the
13 interception period?

14 A There were.

15 Q And could you explain what those were?

16 A The initial interception that the Dutch did for the FBI
17 pursuant to the MLAT intercepted the communications as they
18 went into and left the server. So they weren't intercepting
19 inside the server. As we mentioned before, those packets of
20 communications as we mentioned were encrypted. The data would
21 be sent to the FBI down in Quantico where our folks in
22 Quantico had to apply a series of algorithms to unencrypt the
23 data and put the packages together to complete the call. It
24 required a lot of time and efforts by our folks down in
25 Quantico.

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1 Q And aside from that was there another technological
2 problem as well? Were some calls not being recorded?

3 A Some calls are not being recorded, correct.

4 Q And that was through the interception process Dutch had
5 set up, some calls were being missed?

6 A That is correct.

7 Q What did the FBI do in response to these technological
8 difficulties?

9 A So, the FBI approached the software developer who handled
10 the transit of the VOIP calls through the server and had the
11 code modified so that when the calls were inside the server in
12 an unencrypted status, they were complete calls. They would
13 essentially take a copy of that call and send it to another
14 server that the Dutch controlled so that we would have a full
15 compiled copy of the call that would then be intercepted by
16 the Dutch and sent over to the FBI.

17 Q When was this technological change made?

18 A June and July of 2011.

19 Q And who actually made these changes inside the servers?

20 A Christian was directed to make those changes to the
21 software inside the server.

22 Q And, again, why was Christian directed to do that rather
23 than the FBI going and doing that?

24 A Just again due to the nature of the defendant's
25 associates also had access inside the server. We directed

MARSTON/DIRECT/ROBOTTI

1 Christian to do it.

2 Q And did this change solve the technological difficulties
3 that the FBI was having?

4 A It did.

5 Q You mentioned that there was also a search warrant done
6 of these servers towards the end of 2011. Why was that?

7 A What the FBI learned was that calls were also stored
8 inside the server that had unencrypted data, unencrypted
9 calls. As a result, we requested through an MLAT a search
10 warrant for that server from our Dutch partners which they
11 provided to us.

12 Q And why didn't the FBI just do these search warrants all
13 along?

14 A The FBI wanted to have realtime access to the
15 communications that were transiting through there. So that
16 delayed any of the intelligence that was ongoing.

17 Q All right. Just to summarize, what were the three
18 methods by which the FBI obtained the calls from these Dutch
19 servers?

20 A The three methods were through interception with our
21 Dutch partners; through a search warrant, with our Dutch
22 partners as well as e-mails provided by Christian at our
23 direction.

24 Q How many calls in total did the FBI obtain from these
25 three servers?

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1 A About 1,500 calls.

2 Q And were all of those calls actual recorded
3 conversations?

4 A They were not.

5 Q And when they weren't recorded conversations, in general
6 what were they?

7 A They were hang ups or dialing where no one picked up the
8 phone.

9 Q And, as I will speak about further in a moment, did you
10 obtain recorded calls with the defendant on them?

11 A We did.

12 Q How many recordings of the defendant did you obtain?

13 A Between 100 and 200 calls.

14 Q And on top of that were there other recorded
15 conversations?

16 A There were.

17 Q In total how many recorded conversation did the FBI
18 obtain?

19 A Over 800 calls.

20 Q To your knowledge is there any indication that any of
21 these calls have been altered or tampered with in any way?

22 A There are no indications.

23 Q Is there any indication that these calls were fabricated
24 in any way?

25 MR. LICHTMAN: Objection.

MARSTON/DIRECT/ROBOTTI

1 THE COURT: Overruled.

2 A There is no indication.

3 Q All right. I would like to show you what's been marked
4 for identification only as Government Exhibit 601-A-1 to
5 601-A-3, 601-B and 601-E.

6 Do you recognize those?

7 A I do.

8 Q And what are they?

9 A These are evidence or -- evidence -- our original
10 recordings.

11 Q These are the original recordings from the Dutch servers?

12 A That is correct.

13 Q Are these all of the calls or a subset of the calls?

14 A Just a subset of the calls.

15 Q I would like to now show you Government Exhibit 601-F for
16 identification. Do you recognize this?

17 A I do.

18 Q And what's that?

19 A This is a -- this is select calls from the search warrant
20 returns as well as the intercepts as well as a call data
21 spreadsheet.

22 Q And are these select calls copied from the exhibits that
23 we just looked at 601-A-1 to A-3, 601-B to 601-E?

24 A That's correct.

25 MR. ROBOTTI: Your Honor, the Government offers

MARSTON/DIRECT/ROBOTTI

1 these into evidence.

2 MR. LICHTMAN: No objection.

3 THE COURT: Received.

4 (Government Exhibits 601-F, 601A-1 to A-3, 601-B to
5 601 received in evidence.)

6 (Exhibit published.)

7 BY MR. ROBOTTI:

8 Q So are the calls on here marked 601-F-1 to 601-F-9?

9 A They are.

10 Q Is there also call data included on this disk?

11 A There is.

12 Q What type of data?

13 A The data on the disk is the date and time as well as the
14 associated extensions that were calling each other, where the
15 extension would be associated with a phone number.

16 Q Are those contained in the spreadsheets?

17 A They are.

18 Q And that's marked 601-F-10?

19 A Yes.

20 Q All right. And what are the time zone of the calls on
21 this disk?

22 A The time phone is called Coordinated Universal Time,
23 priorly known as Greenwich Meantime.

24 Q How does that compare to the time in Sinaloa, Mexico?

25 A At the time of the interceptions it's a six-hour

MARSTON/DIRECT/ROBOTTI

1 difference.

2 Q I would like to show you Exhibit 601-H for
3 identification. Do you recognize this?

4 A I do.

5 Q And what do you recognize this to be?

6 A This is a disk that contains the e-mails that Christian
7 had provided with the attachments from those e-mails which
8 would be the audio calls.

9 MR. ROBOTTI: So the Government, Your Honor, offers
10 Government Exhibit 601-H into evidence.

11 MR. LICHTMAN: No objection.

12 THE COURT: Received.

13 (Government Exhibit 601-H received in evidence.)

14 (Exhibit published.)

15 BY MR. ROBOTTI:

16 Q And this list of numbers on the right-hand side of the
17 disk there, does that correspond to the e-mails on the disk?

18 A It does.

19 Q Looking next at Government Exhibit 601-G for
20 identification. Do you recognize this?

21 A I do.

22 Q And what's this one?

23 A This disk contains select calls from the e-mails as well
24 as a data spreadsheet.

25 Q Select calls from e-mails marked Government Exhibit

MARSTON/DIRECT/ROBOTTI

1 601-H? Is that what we just looked at?

2 A Correct.

3 MR. ROBOTTI: Your Honor, the Government offers
4 601-G into evidence.

5 MR. LICHTMAN: No objection.

6 THE COURT: Received.

7 (Government Exhibit 601-G received in evidence.)

8 (Exhibit published.)

9 BY MR. ROBOTTI:

10 Q So are the calls on this disk marked 601-G-1 to 601-G-4?

11 A That's correct.

12 Q And the data is 601-G-5?

13 A That is correct.

14 Q And in general again here what type of data do we have on
15 this disk?

16 A We have the date and time. We'll have a file name or a
17 name of what the call was called or what it put down as well
18 as the extensions and if there was an extension with the phone
19 number.

20 Q Where did this data come from?

21 A The data came from inside the server.

22 Q These are the e-mails called -- sorry.

23 All right. Just a few more to get through here.

24 601-I for identification. Do you recognize this one.

25 A I do.

MARSTON/DIRECT/ROBOTTI

1 Q And what's this one?

2 A These will be the audio that was attached to -- or
3 attached within the e-mails.

4 Q Okay. And are these select calls from those e-mails?

5 A They are.

6 MR. ROBOTTI: The Government offers Government
7 Exhibit 601-I into evidence.

8 MR. LICHTMAN: No objection.

9 THE COURT: Received.

10 (Government Exhibit 601-I received in evidence.)

11 (Exhibit published.)

12 BY MR. ROBOTTI:

13 Q And are the calls on this disk labeled on the exhibit
14 numbers on the right there?

15 A They are.

16 Q I'd like to show you 601-J, K, L for identification and M
17 which is already in evidence.

18 MR. ROBOTTI: Some of these are only for
19 identification.

20 THE COURT: Only M is in, right?

21 MR. ROBOTTI: Yup.

22 BY MR. ROBOTTI:

23 Q If you can see all of those, do you recognize these?

24 A I do.

25 Q And what are they?

MARSTON/DIRECT/ROBOTTI

1 A These are all select calls from both the intercepts as
2 well as the e-mails provided by Christian.

3 MR. ROBOTTI: Your Honor, the Government offers
4 601-J, 601-K and 601-L into evidence.

5 MR. LICHTMAN: No objection.

6 THE COURT: Received.

7 (Government Exhibits 601-J, 601-K and 601-L received in
8 evidence.)

9 (Exhibit published.)

10 BY MR. ROBOTTI:

11 Q And one final disk. I'm going to show you what's been
12 marked as Government Exhibit 601-N for identification. Do you
13 recognize this one?

14 A I do.

15 Q And what's this?

16 A It's a disk that contains an original as well as an
17 enhanced call from the intercepts.

18 MR. ROBOTTI: Your Honor, the Government offers
19 601-N into evidence.

20 MR. LICHTMAN: No objection.

21 THE COURT: Received.

22 (Government Exhibit 601-N received in evidence.)

23 (Exhibit published.)

24 BY MR. ROBOTTI:

25 Q And you mentioned a moment ago that Sinaloa has a

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1 six-hour difference with Greenwich meantime. Is that six
2 hours behind or six hours ahead?

3 A Six hours behind.

4 Q I'd like to show you Government Exhibit 511-1 for
5 identification. Do you recognize this?

6 A I do.

7 Q What's this?

8 A This is a spreadsheet of some of the calls, select calls,
9 that are from the e-mails that Christian provided as well as
10 the intercepted calls that the FBI got from the Dutch.

11 Q Is this a summary chart?

12 A It is a summary chart.

13 Q Let's talk briefly about what you reviewed in preparing
14 this chart. Looking at the first two columns there which list
15 Call Exhibit and Transcript Exhibit. Are those the exhibit
16 numbers for calls and transcripts you reviewed?

17 A They are.

18 Q All right. And the columns entitled Participant 1,
19 Participant 2 and Participant 3, what are those?

20 A The three columns of Participant 1, 2 and 3 represent the
21 individuals that were intercepted on the calls.

22 Q Is that information derived from the transcripts that you
23 reviewed?

24 A It is.

25 Q Now, the information, the date and time columns, where

MARSTON/DIRECT/ROBOTTI

1 did you get them from?

2 A That is also from the transcripts.

3 Q And is that also pulled from the data spreadsheets that
4 were on the disks we just looked at?

5 A Yes.

6 Q And, finally, the original file name or the call ID
7 number, where is that from?

8 A The file numbers would be associated with the e-mails
9 that Christian provided and the call ID number would be
10 associated with the calls that were intercepted.

11 MR. ROBOTTI: Your Honor, the Government offers
12 Government Exhibit 511-1 into evidence.

13 MR. LICHTMAN: Judge, I'm going to object. Could we
14 approach, please?

15 THE COURT: Yes.

16 (Sidebar held outside of the hearing of the jury.)

17 (Continued on next page.)
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SIDEBAR

1 (The following sidebar took place outside the
2 hearing of the jury.)

3 MR. LICHTMAN: Judge, the participants that are
4 listed on that chart list Guzman's name and there hasn't been
5 any testimony yet that it's Guzmán. So we're basically
6 putting the cart before the horse. I don't mind this coming
7 in after the testimony comes in as to who is on the calls.
8 Right now you've got a chart that's going to be shown to the
9 jury that already presumes that the defendant is on it.

10 THE COURT: Is Rodriguez going to testify that the
11 defendant is on these calls on the chart?

12 MR. ROBOTTI: He will. Special Agent Marston will
13 also make voice identification here based on a known
14 comparison.

15 THE COURT: I will take it subject to connection.

16 MR. ROBOTTI: Your Honor, he testified that what he
17 reviewed was the actual transcripts which do have the
18 identification on there.

19 THE COURT: There's plenty on there. There's
20 enough.

21 (Sidebar ends.)

22 (Continued on next page.)
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1 BY MR. ROBOTTI: (Continuing.)

2 MR. ROBOTTI: The Government offers 511-1 in
3 evidence.

4 THE COURT: That is received over objection subject
5 to connection.

6 (Government Exhibit 511-1 received in evidence.)

7 BY MR. ROBOTTI:

8 Q I would like to direct your attention to the individual
9 listed in the Participant 1 column. Who is listed in that
10 column for all of these calls?

11 A The defendant.

12 Q And which extensions are listed as associated with the
13 defendant in the chart?

14 A The very top one they are unknown extensions or unknown
15 extension but we have 185, 121 and extension 120.

16 Q And these are the three digit extensions you talked about
17 earlier for that closed system; is that right?

18 A That's right.

19 Q And the extension that's listed as unknown for certain
20 calls, why is that?

21 A The e-mails or the audio that was e-mailed to us from
22 Christian did not contain that data.

23 Q Now for the calls on this list, were you able to conduct
24 any type of comparison?

25 A I was.

MARSTON/DIRECT/ROBOTTI

1 Q What type of comparison did you conduct?

2 A I was able to conduct a voice comparison.

3 Q How did you conduct that comparison?

4 A I conducted that comparison against a call from the MCC
5 from the defendant.

6 Q Did you use another sample as well?

7 A I used the video from the Rolling Stone interview.

8 Q And are you an expert in voice comparisons?

9 A I am not.

10 Q Do you have any experience conducting voice comparisons?

11 A I do.

12 Q And what type of experience would that be?

13 A Through our wiretap investigations, as well as consensual
14 recordings. I've had opportunities to do voice -- to review
15 those and in trying to compare voices.

16 Q Now, when you conducted that comparison what conclusion
17 did you reach with respect to the participants on these calls?

18 MR. LICHTMAN: Objection.

19 THE COURT: Overruled.

20 A I concluded that the defendant's voice that was part of
21 our intercepts was the same as the voice from the MCC call, as
22 well as the Rolling Stone video.

23 Q Now, having listened to the defendant's voice on the
24 calls and also on these known samples, how would you describe
25 his voice in general?

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1 A In general it has a higher pitch. It has kind of a
2 sing-song-y variation to it and I pick up kind of like a
3 nasally undertone. Those are the characteristics that I
4 associate with it.

5 Q Did you identify any other voices listed in Government
6 Exhibit 511-1?

7 A I did not.

8 Q Now in the transcripts that you reviewed for all the
9 calls listed in this chart, how is the defendant's voice
10 identified?

11 A It was marked as JGL.

12 Q And did you recognize the defendant's voice as the one
13 associated with JGL in those transcripts?

14 A I did.

15 Q When did you first become familiar with the defendant's
16 voice on these calls?

17 A Back at the beginning of the interceptions, back in 2011,
18 April/May time frame.

19 Q And at that time what was your view that this was the
20 defendant's voice based upon?

21 A In part, information provided by Christian coupled with a
22 call in which he's referred to as Chapo and then the content
23 of the communication suggests that when they're referring to
24 him, they're referring to him as the man, the boss and showing
25 signs of respect such as sir.

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1 Q At some point after April of 2011 did you compare the
2 defendant's voice to anything else?

3 A Yes, I did.

4 Q And what was that?

5 A In March 2012 there was a release of a video, an online
6 video that I reviewed that compared -- that I compared to the
7 defendant's voice and to me it sounded the same.

8 Q And we'll talk about a video in a little bit. All right.
9 So let's start by listening to one of the known samples of the
10 defendant's voice. I would like to show you what's in
11 evidence as Government Exhibit 608-2.

12 (Exhibit published.)

13 Q Do you recognize this?

14 A I do.

15 Q And what's that?

16 A This is the MCC call that the defendant made.

17 Q And this is dated May 7, 2018?

18 A Yes.

19 MR. ROBOTTI: All right. Now if the members of the
20 jury can take out their transcript binders under their seats.
21 We're going to play a clip from this call. Many of the clips
22 are going to be on the screen in front of you today. This one
23 is just in the binder. It's the last call in the binder.
24 608-2A-T. And we're going to begin on page 12 at paragraph
25 124 and we're going to go to 140 on page 13.

MARSTON/DIRECT/ROBOTTI

1 (Audio played.)

2 BY MR. ROBOTTI:

3 Q I would like to direct your attention, Special Agent
4 Marston, to paragraph 137. Could you read paragraph 137?

5 A Paragraph 137: "UF: Yes, because they said it was
6 already flat all the way to Mayo's house, like, ready to pave,
7 be paved. We haven't been down there."

8 MR. ROBOTTI: And just for the record, the clip we
9 played was from 7 minutes and 52 seconds to 9 minutes and 10
10 seconds.

11 Q You mentioned a moment ago that there was a call you
12 reviewed where the defendant was referred to as Chapo; is that
13 right?

14 A That's correct.

15 Q I would like to return to that call. We'll play
16 Government Exhibit 601-F-9-A which is in evidence. It's a
17 call dated July 7, 2011 at 7:18 p.m. Let's play the clip from
18 1 minute and 54 seconds 2 minutes and 45 seconds. This is the
19 transcript, 601-F-9-A-T, but it will also be on the screen
20 here. It starts on paragraph 21 on page four to paragraph 20
21 on page five.

22 (Audio played.)

23 BY MR. ROBOTTI:

24 Q So looking at the transcript here with whom is the
25 defendant identified as speaking?

MARSTON/DIRECT/ROBOTTI

1 A With Virgo.

2 Q And JGL, which voice is that?

3 A The defendant's.

4 Q So looking -- directing your attention to the middle of
5 paragraph 23, what does Virgo say beginning with, "He told
6 him"?

7 A "He told him, no. Well, to be honest with you my
8 compadre over there, my Compadre Chapo, said not to give you a
9 hand."

10 Q And how does the defendant respond in paragraph 24?

11 A The defendant, or JGL: "I have never said that to
12 Changel."

13 Q And then on the following page, paragraph 28, what does
14 the defendant say there?

15 A JGL: "That -- he's lying."

16 MR. LICHTMAN: Objection, Judge.

17 THE COURT: Sustained.

18 MR. ROBOTTI: Can we approach?

19 THE COURT: Yeah.

20 (Sidebar held outside of the hearing of the jury.)

21 (Continued on next page.)

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SIDEBAR

1 (The following sidebar took place outside the
2 hearing of the jury.)

3 THE COURT: First, what's the objection?

4 MR. LICHTMAN: It's being read to the jury. And
5 then it's being read again and then it's in conclusion. How
6 many times are we going to go through this?

7 THE COURT: I thought he was interpreting it, which
8 I do not think he can do. Now I am not so sure.

9 MR. ROBOTTI: He was not interpreting it. I'm aware
10 of that limitation here. As the Court has recognized
11 previously because these calls are in a foreign language and
12 because they're scrolling along the screen, it is difficult
13 for the jurors to follow along so we would ask for a little
14 leeway with reading back the portions that are the relevant so
15 we're sure the jury understands it.

16 MR. LICHTMAN: They're highlighted. It's being read
17 and immediately translated into English so it's right there
18 for them to see and the Government goes back and says we
19 really want you to see this and tell us again what's being
20 said.

21 THE COURT: The calls are in evidence. I do not see
22 the problem with the Government highlighting those portions of
23 the calls that they want the jury to focus on, particularly
24 because being a translation it's not immediately apparent as
25 being a high volume of material. It will not be clear to the

SIDEBAR

1 jury what the Government wants them to focus on so I think
2 excerpts can be read to the jury as long as there is no
3 interpretation.

4 MR. ROBOTTI: Thank you, Judge.

5 THE COURT: Mr. Robotti, I would like to break any
6 time between now and 1, wherever it is convenient for you.

7 MR. ROBOTTI: I would like to finish this call and
8 one more brief one and then that would be a good time to
9 break.

10 (Sidebar ends.)

11 (Continued on next page.)

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MARSTON/DIRECT/ROBOTTI

1 (Continuing.)

2 THE COURT: Put the question again, please.

3 MR. ROBOTTI: Yes, Judge.

4 BY MR. ROBOTTI:

5 Q Special Agent Marston, directing your attention to
6 paragraph 28, what does the defendant say there?

7 A That: "He's lying that Changel told him that because I
8 didn't even -- I never told Changel anything."

9 Q Okay. I would like to turn to another clip. Now, have
10 you identified information associated with the defendant in
11 another call?

12 A I have.

13 Q And what identifying information was that?

14 A The name Joaquin.

15 Q So I would like to look at call Government Exhibit
16 601-F-7, which is in evidence, a call dated July 6, 2011 at
17 8:45 p.m.

18 MR. ROBOTTI: For the jurors, this transcript will
19 be 601-F-7-T. The F exhibits are in the front half and the I
20 exhibits are in the second half. So this one will be in the
21 front half of your binders there. It will begin at paragraph
22 one on page two and then we're going to play a little clip
23 there and then go to paragraph 12 on page one. It will be --
24 the first clip will be 0 seconds to 34 seconds and then 2
25 minutes 13 seconds to 3 minutes and 8 seconds.

MARSTON/DIRECT/ROBOTTI

1 If we could play the clip.

2 (Audio played.)

3 BY MR. ROBOTTI:

4 Q All right, now let's move to the second part.

5 (Audio played.)

6 BY MR. ROBOTTI:

7 Q I would like to direct your attention to paragraphs 23 to
8 25. Which are up on the screen here.

9 (Exhibit published.)

10 Q Did you locate identifying information for the defendant
11 in those paragraphs?

12 A I did.

13 Q And starting with, "He says," could you read that
14 sentence?

15 A "He says, sell one of Joaquin's trucks over there and
16 send me the money. No, I told him, I cannot sell the cars
17 that he has over here."

18 Q Okay.

19 A And then --

20 Q And then picking up at the bottom of 23 here to 25.

21 A "UF: So he wants me to sell a truck that you have over
22 here but I tell him no."

23 Q Okay. And, just for the record, which voice did you
24 identify as associated with the defendant in this call?

25 A The transcript marked as JGL.

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1 MR. ROBOTTI: Judge, now would be a good time to
2 break.

3 THE COURT: We will take our lunch break, ladies and
4 gentlemen. Please remember not to talk about the case amongst
5 yourselves. We will come back at 1:40. We will see you then.

6 (Jury exits.)

7 (In open court.)

8 THE COURT: Recess until 1:40.

9 (Luncheon recess taken.)

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MARSTON/DIRECT/ROBOTTI

1 A F T E R N O O N S E S S I O N

2 (In open court.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Please bring in the jury.

5 (Jury enters.)

6 THE COURT: All right. Everyone be seated. We will
7 continue with direct, Mr. Robotti.

8 MR. ROBOTTI: Thank you, Judge.

9 DIRECT EXAMINATION

10 BY MR. ROBOTTI: (Continued.)

11 Q Good afternoon, Special Agent Marston.

12 A Good afternoon.

13 Q Before the break, we played two phone calls. I would
14 like to ask you about extensions used in those two phone
15 calls. So looking back for a moment at 511-1, in this top row
16 here, Government's Exhibit 601F-9A, what extension did the
17 defendant use?

18 A Extension 121.

19 Q And then Government's Exhibit 601F-7, what extension did
20 the defendant use?

21 A Extension 120.

22 Q All right. So before we turn to any additional phone
23 calls, I would like to show you what's been marked for
24 identification as Government's Exhibit 511-3.

25 Do you recognize this?

Denise Parisi, RPR, CRR

MARSTON/DIRECT/ROBOTTI

1 A I do.

2 Q And what is it?

3 A It's a visual -- visual representation of the
4 spreadsheet.

5 Q All right. This is a summary of the information in the
6 spreadsheet marked Government's Exhibit 511-1?

7 A It is.

8 MR. ROBOTTI: Your Honor, the Government's offers
9 511-3 into evidence.

10 MR. LICHTMAN: No objection.

11 THE COURT: Received.

12 (Government's Exhibit 511-3 received in evidence.)

13 MR. ROBOTTI: We'd also like to offer 511-3A, which
14 is just a board size version of this.

15 MR. LICHTMAN: No objection.

16 THE COURT: Okay.

17 (Government's Exhibit 511-3A received in evidence.)

18 (The above-referred to exhibit was published.)

19 BY MR. ROBOTTI:

20 Q In general, what does 511-3 and -3A show?

21 A In general, it's the defendants encrypted phone system
22 with some select individuals on the bottom.

23 Q Okay. And are these the individuals that he was speaking
24 with that are listed in your chart marked Government's Exhibit
25 511-1?

MARSTON/DIRECT/ROBOTTI

1 A That's correct.

2 THE COURT: Mr. Robotti, I have to tell you, I mean,
3 the jurors have it on their screen, they have it on the
4 overhead screen, and they have it on the board that you just
5 put up, but the board isn't going to be any easier for them to
6 see from there than it is for them to see the big screen,
7 neither of which are probably as good as looking at it on
8 their screen, so if you are going to use the board, it's got
9 to be closer to them.

10 MR. ROBOTTI: Sure, Judge. We are going to keep
11 that up while we're playing the phone calls today, so I think
12 we can maybe move it over by where the marshals are sitting
13 there.

14 THE COURT: Wherever you like. My point is it's not
15 doing any good there.

16 MR. ROBOTTI: Thanks, Judge.

17 (Pause.)

18 MR. ROBOTTI: So while we're doing that, the next
19 phone call is going to be another excerpt from Government's
20 Exhibit 601F-7.

21 So for the jurors, the transcript is going to be
22 601F-7T. This is a call with UF No. 1, who is third from the
23 right on the bottom of our exhibit there.

24 For the record, the clip will be from eight minutes
25 and 44 seconds to ten minutes and 41 seconds. It will begin

MARSTON/DIRECT/ROBOTTI

1 on paragraph 48 on page 9, and it will go to paragraph 61,
2 page 11.

3 (Recording played.)

4 BY MR. ROBOTTI:

5 Q All right. So I would like to have you first read
6 paragraph 62, which is just -- that wasn't in the clip. It's
7 the next paragraph after the end of the clip. Could you read
8 that here?

9 A Yes.

10 Paragraph 62. JGL: Then let me know so I can have
11 the account number and how we are going to do it because if I
12 pay the -- if I pay the masons and they -- and then they raid
13 the warehouse, are they going to say where they got the money
14 from?

15 Q All right. And going back to paragraph 51, let me direct
16 your attention to -- it's actually on page 10, beginning "in
17 the end," could you read the rest of that paragraph?

18 A In the end, nothing was put inside, but you can see
19 the -- the tunnel, you know, just like that, and when the
20 little soldiers, I mean, saw it, well, they simply -- didn't
21 see anything, and then they left. They were looking for other
22 things, weapons, and other things.

23 Q And could you read 52 to 54?

24 A JGL: Oh, all right, but if you go inside the -- the
25 warehouse, can you see the hole?

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1 UF: If you go inside El Carrizo, you can see the
2 hole, uh, yes.

3 JGL: They should have covered it, man.

4 Q So then looking back at our board up there, our next set
5 of calls is going to be between the defendant and Cholo Ivan,
6 who is the photograph in the far left corner, and he is using
7 a Mexican phone number on those calls -- Cholo Ivan.

8 The transcript for the jurors is going to be
9 601I-2AT. It's about, I think, two transcripts behind the one
10 we just looked at; and the clip is going to be marked
11 Government's Exhibit 601G-1A dated April 9th, 2011, at
12 2:11 a.m. It will be from 19 seconds to one minute and 23
13 seconds, and it will begin on paragraph 11 on page 2.

14 (Recording played.)

15 BY MR. ROBOTTI:

16 Q All right. So I would like to just have you read another
17 section that's not in the call, paragraph 23 on page 4, and
18 that's going to be the sentence starting "there's no."

19 A JGL: There's no security like that. There's no security
20 like that because we do -- because who do you notify you are
21 going to be or where you're going? There's none like that.
22 There's none that way, so tell -- tell Alfonso to introduce
23 you and that -- that there will be a nice gift if he
24 introduces you.

25 Q Then going back to page 2, paragraph 11, to whom does the

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1 defendant refer during this phone call?

2 A Cholo.

3 Q And on page 3, paragraph 12, could you read what Cholo
4 says?

5 A Well, you know, here on the road just going all over the
6 place, but we're here fucking battling it out.

7 Q All right. So the next clip will be from the same call,
8 and this will be from three minutes and 37 seconds to five
9 minutes and --

10 MR. ROBOTTI: Hold on one second.

11 BY MR. ROBOTTI:

12 Q -- three minutes and 37 seconds to five minutes and
13 39 seconds, it will begin at paragraph 31, and we'll go to
14 paragraph 51 on page 8.

15 (Recording played.)

16 BY MR. ROBOTTI:

17 Q All right. So I would like to have you take a look at
18 paragraphs 35 to 38 on page 6, and could you read those
19 paragraphs for us?

20 A Thirty-five. JGL: On that topic, about abductions,
21 well, over there when -- whenever they stop somebody who has
22 nothing to do with anything, well, he needs to leave right
23 away. And if they are policemen, the same, because the chief
24 of police around there were saying, I don't know how, but that
25 some had arrived all scratched up, uh, that -- that someone

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1 named Cholo scratched them up. Is it true or could it be
2 another?

3 Cholo: Which ones? Which ones?

4 Line 38. JGL: It was the police.

5 Q Turning to paragraphs 43 to 45 on the following page.

6 A Forty-three. Cholo: The local cops, the local cops, the
7 other day I was able to put them in their place because I
8 spoke with the director, with the director, and they said that
9 things were going to work out all right, and a while later, I
10 called for them to stop cars over there so we don't lose
11 ground, and the guys -- don't lose ground and the guys, and he
12 didn't answer the phone. And I sent him, stay at the house,
13 close it up, and paid them over the top. The motherfuckers
14 running so that they understand.

15 JGL: Did you beat them up?

16 Cholo: Yeah. I gave them a good kick in the ass.

17 Q And paragraph 49.

18 A Cholo: No, and then AFI, they also came, came down on
19 the house where I was hiding. They raided me last night and,
20 well, I don't know who they are and these people and they
21 fucked them up as well.

22 Q And are you familiar with what AFI is?

23 A I am.

24 Q What is that?

25 A It's part of Mexican law enforcement.

MARSTON/DIRECT/ROBOTTI

1 Q All right. So the next call with Cholo Ivan will be the
2 transcript 601I-2BT. It's the following transcript in your
3 binders.

4 THE COURT: Two Baker Thomas?

5 MR. ROBOTTI: Yes, 2BT.

6 BY MR. ROBOTTI:

7 Q This will be Government's Exhibit 601G-1B dated April 9,
8 2011, at 2:18 a.m. The clip will be from zero seconds to two
9 minutes and 30 seconds, and the transcript will begin at
10 paragraph 1 on page 2 and go to paragraph 41 on page 7.

11 MR. ROBOTTI: We can go ahead.

12 (Recording played.)

13 MR. ROBOTTI: I think there's another 15 seconds
14 there.

15 (Recording played.)

16 BY MR. ROBOTTI:

17 Q So I would like to direct your attention, Special Agent
18 Marston, to paragraph 10 and 11 on page 3. And could you read
19 those?

20 A JGL: When you talk -- talk to them, you know that they
21 are policemen. It's better not to smack those around.

22 Cholo: No, no, uh, well, why don't they ask for
23 permission to come in here since they already know where --
24 how to talk to us. He -- he has my -- he -- he has my
25 brother's number and all that shit, the bastard. Why doesn't

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1 he check in?

2 Q All right. And paragraphs 14 and 15?

3 A JGL: Yeah, better not, better not, so we don't end up
4 badly with them. Tell them that -- that you're there at their
5 disposal.

6 Cholo: No, well, they were fucking watching me.
7 They sicked the state, the federals, the municipals, even
8 traffic, they sicked them on me, the sons of bitches, so right
9 now I ran in them.

10 Q Paragraphs 18 and 19.

11 A JGL: And, uh, anybody -- once you have them tied up and
12 such, we'll check it out to make sure we don't execute
13 innocent people.

14 Cholo: Yes, senor, but, uh, well, there are people
15 here who are quick to act here, too, that, well, they don't
16 give a fuck, though, and it's going to be fucking hard.

17 MR. ROBOTTI: All right. Let's continue with the
18 rest of that call.

19 (Recording played.)

20 BY MR. ROBOTTI:

21 Q All right. So I would like to direct your attention back
22 to paragraphs 36 and 37. Could you read those two paragraphs?

23 A JGL: All right, then, Cholo. Count -- count on that and
24 we'll be in touch. Uh, just take it easy with the people so
25 that, uh, listen -- so then did you beat up those policeman?

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1 Cholo: I kicked their asses, the federals, all of
2 them, local and...

3 Q All right. And then finally after this call, I would
4 like to have you read paragraphs 40 and 41 at the stop of this
5 page.

6 A JGL: Don't be so harsh, fucking, Cholo. Take it easy
7 with the police.

8 Cholo: Well, you taught us to be a wolf, acting
9 like a wolf, I'm remembering, and that is how I like to do it.

10 Q All right. So I would like to turn next to the third
11 call with Cholo Ivan.

12 MR. ROBOTTI: This is going to be the very next
13 transcript in your binders, ladies and gentlemen, 601I-2CT.
14 It's going to be Government's Exhibit 601G-1C dated April 9th,
15 2011, at 6:21 p.m. The clip will be from zero seconds to one
16 minute and 46 seconds. Transcript will begin at paragraph 1
17 on page 2 and go to paragraph 30 on page 4.

18 We can go ahead with that.

19 (Recording played.)

20 BY MR. ROBOTTI:

21 Q All right. I would like to direct your attention to
22 paragraph 14, and could you read that?

23 A JGL: Don't be chasing cops. They are the ones who help.
24 Leave them alone, uh...

25 Q And then paragraphs 17 and 18.

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1 A Cholo: The thing -- the thing is that we tell them and
2 they don't pay us any mind, and so then, well, what do we do?

3 JGL: No, no, no, no, no, no, no, uh-huh, uh, just
4 remind -- just reprimand them. Don't beat them -- don't beat
5 them anymore. Well, the other day, you told me that, last
6 night, that -- that already, uh, you worked out running.

7 Q And then paragraph 30 on the following page.

8 A JGL: Talk to them calmly, because otherwise, they can
9 call the soldiers.

10 Q All right. So let's turn to a second clip from that
11 call, same transcript. It's going to be three minutes and
12 19 seconds to 3 minutes and 33 seconds. It will begin at
13 paragraph 54 on page 6, and it will go to paragraph 56 on that
14 same page.

15 MR. ROBOTTI: You can go ahead and play that.

16 (Recording played.)

17 BY MR. ROBOTTI:

18 Q All right. And directing your attention to paragraphs 55
19 and 56, could you, please, read those?

20 A Cholo: No -- no, well, whenever you want to. I can
21 leave now if you -- if you need to rough him up.

22 JGL: No. Let's do things right. The magazines,
23 when do you get them?

24 Q All right. So the fourth clip with Cholo -- the fourth
25 call -- excuse me -- the fourth call with Cholo Ivan will be

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1 the next transcript, 601I-2DT, and it's going to be 601G-1D
2 dated April 9th, 2011, at 6:29 p.m. The clip will be from
3 17 seconds to one minute and seven seconds, and it's going to
4 begin on paragraph 4 of page 2 and go to paragraph 15 on
5 page 3.

6 MR. ROBOTTI: You can go ahead and play this.

7 (Recording played.)

8 BY MR. ROBOTTI:

9 Q All right. So I would like to direct your attention to
10 paragraph 6 on page 2, and could you read that paragraph?

11 A JGL: When will you get the magazines that you told me
12 about yesterday? When will those magazines arrive? Because
13 they are going to be needed to go over there.

14 Q And then on the following page, paragraphs 12 through 14.

15 A JGL: Once the magazines get there, let me know so I --
16 so I can send you that money, and so you gas up and, uh, and
17 those cops, don't beat them up anymore.

18 Cholo. No, well, they should behave, the assholes
19 because, well...

20 JGL: Listen, you already beat them up once, they
21 should listen now. Talk to the director.

22 Q All right. So this is going to be another clip from this
23 phone call, it's going to begin on paragraph 23 on page 3 and
24 go to paragraph 39 on page 5.

25 MR. ROBOTTI: For the record, it's one minute and 37

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1 seconds to two minutes and 46 seconds.

2 (Recording played.)

3 BY MR. ROBOTTI:

4 Q So directing your attention to paragraph 28. Could you
5 read that paragraph?

6 A JGL: That's good, but wait for them to bring the
7 magazines, because what are you going to do without magazines?

8 Q And on the following page, paragraphs 34 and 35 at the
9 top.

10 A JGL: But listen to this, whoever -- whoever is stealing,
11 you tell them, and that's it, we tell the police so they'll
12 put the -- they'll put him in jail.

13 Cholo: No, well, no reason to go around being a
14 troublemaker, boss. You have taught me that.

15 Q How does Cholo Ivan refer to the defendant in that
16 paragraph?

17 A As boss.

18 Q And then could you read paragraphs 38 and 39?

19 A JGL: You just have to tell me, because, what if -- if
20 they set up or pick up a friend and kill him? There are a lot
21 of friends there.

22 Cholo: No. Well, that's true. One picks without
23 knowing, something that is other than what it is.

24 Q So the next clip will begin at paragraph 54 on page 7,
25 and it will go to paragraph 81 on page 9, and the clip will be

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1 from four minutes and 18 seconds to six minutes and
2 40 seconds.

3 (Recording played.)

4 BY MR. ROBOTTI:

5 Q All right. So let me direct your attention to
6 paragraphs 54 and 55 in the transcript. Could you read those
7 two paragraphs?

8 A JGL: Okay, okay, then. I'm going to send you money for
9 gasoline and the -- and for you to pay for the magazines. How
10 many magazines are there?

11 Cholo: There are 60 magazines. I ordered 30 and
12 30, at least 1,000 pesos.

13 Q And moving down to paragraph 58.

14 A JGL: Listen, and the -- and I -- I'm glad you brought up
15 the topic. Don't shoot whoever sells cocaine.

16 Q Turning to the next page, at the top, paragraph 62
17 through 64.

18 A JGL: The crystal, don't sell it, and, uh...

19 Cholo: I'm already -- I'm already fucking rushing
20 him, the movement.

21 JGL: And the cocaine?

22 Q And then can we go to paragraphs 70 to 74?

23 A JGL: Ask if he has cocaine.

24 Cholo: I work it out with them.

25 JGL: Make sure you have no kilos left over, right?

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1 Q All right. So the final call with Cholo Ivan will be the
2 transcript marked 601I-2ET.

3 MR. ROBOTTI: It should be the next transcript in
4 your binder, ladies and gentlemen. This will be Government's
5 Exhibit 601G-1E dated April 10th, 2011, at 10:24 p.m. This is
6 be the full call starting at paragraph 1. Ladies and
7 gentlemen, this transcript will just be in your binders. This
8 will not be on the screen.

9 Go ahead.

10 (Recording played.)

11 BY MR. ROBOTTI:

12 Q All right. We are going to pause for the record at
13 two minutes and 24 seconds. Special Agent Marston, I'm going
14 to ask you to read back paragraph 19 on page 3.

15 A Cholo: No, no, well, sons of bitches, it's just that --
16 well, well, I got all the way over, over there to Guasavito
17 last night. I gave those damn bastards a good spray because
18 those fuckers showed up and killed one of my police by the
19 entrance there last night. Can you hear me? Hello?

20 Q Turning to the following page, could you read
21 paragraphs 29 to 32?

22 A Cholo: No, again, I'm telling you, they can't fucking
23 make me run anywhere. Shit run. I'd die -- I'd die on the
24 line first before I run.

25 JGL: Oh, oh, oh. No, then, so then, like that,

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1 things are like, like, like, that then.

2 Cholo: We chased them all the way to Guasavito. We
3 went there last night. From Burrion they ran further up.

4 JGL: Well, son of a bitch, and what were they doing
5 there?

6 Q All right. We can turn to the rest of the call.

7 (Recording played.)

8 (Continued on the following page.)

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1 (Continuing.)

2 BY MR. ROBOTTI:

3 Q All right. Special Agent Marston, directing your
4 attention to paragraph 36. Could you please read that
5 paragraph?

6 A 36, JGL: Listen. Get together with the locals and go in
7 there and make yourself known. It's just that the troops --
8 the troops. You need to talk with -- with -- with -- with the
9 major, so he can hook you up because if you don't get hooked
10 up, how are you going to go do it?

11 Q All right. And turning to paragraph 43 on the following
12 page?

13 A Forty-three, Cholo: Yes, Señor. Yes, Señor. And we're
14 going to be here. Son of a bitch. See if -- see if I'm not
15 going to be beat the shit of out of him. If he doesn't
16 support me, then he'll find out the hard way.

17 Q And how does Cholo Ivan refer to the defendant in the
18 paragraph?

19 A Señor.

20 Q All right. And directing your attention to paragraphs 49
21 to 55, could you please read those?

22 A Forty-nine. Cholo: Yes, Señor. Otherwise, well, I'll
23 take care of it with some 40 bastards here. Anyway, we'll be
24 fine here. You don't worry.

25 JGL: Okay then. Fine.

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1 Cholo: Get fucked. Then we will fuck them up.

2 JGL: Hey. We'll be talking. Be well.

3 Cholo: Yes, Señor. Nice talking to you.

4 MR. ROBOTTI: All right. So for our next set of
5 calls, just directing everyone's attention back to Government
6 Exhibit 511-3A for a moment. We're going to play calls
7 between the defendant and Gato, who is fourth from the left,
8 and he's using extension 170.

9 So the first call with Gato is going to be 601F-2AT.
10 So if you would turn to the front of your transcript binders,
11 and it's going to be the very first transcript.

12 And this will be Government Exhibit 601F-2A, dated
13 July 9th, 2011, at 6:39 p. m. The clip will be from one
14 minute to five minutes and 25 seconds, and it's going to begin
15 at paragraph one on page two and go to paragraph 35 on page
16 six.

17 (Audio played in open court.)

18 BY MR. ROBOTTI:

19 Q All right. So pausing at three minutes and nine seconds,
20 Special Agent Marston, let me direct your attention back to
21 paragraph 14. Could you read that portion of that paragraph,
22 beginning, "Hey I'm here with" --

23 A Gato: Hey, I'm here with El, El Yanqui, the one, the new
24 one who just arrived. I have always been paying him here.
25 Well, so they could be at our service and keep us up to date

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1 with -- with what happens. What do you think?

2 Q All right. And going to paragraph 18, could you just
3 read the first sentence of that?

4 A Gato: Initially, in the beginning, it was Licenciado who
5 are introduced me.

6 Q And then going to paragraphs 25 and then 26 on the
7 following page, could you read those?

8 A JGL: But, uh, but he receiving the monthly payment, but
9 is he receiving the monthly payment?

10 Gato: Yes. He's receiving the monthly payment.

11 MR. ROBOTTI: All right. And we can play the next
12 portion of this call.

13 (Audio played in open court.)

14 BY MR. ROBOTTI:

15 Q All right. So for the record, stopping at four minutes
16 and 29 seconds.

17 Special Agent Marston, directing your attention to
18 paragraphs 27 through 29, could you read those paragraphs for
19 us?

20 A JGL: Yes. So you want me to ask him please -- you want
21 me to ask him to please leave, leave that young man? Uh.
22 Give me his name.

23 Gato: He's here with me. Do you want me to put --
24 do you want me to put him on?

25 JGL: Oh. That is better, better, better.

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1 Q All right. And just paragraph 28, that is to put El
2 Yanqui on?

3 A Correct, to put El Yanqui on.

4 MR. ROBOTTI: All right. And let's play the rest of
5 that call.

6 (Audio played in open court.)

7 BY MR. ROBOTTI:

8 Q All right. Can we read paragraph 31?

9 A JGL: No, I tell them that those young men, since they
10 have always worked here at the company, I mean, in favor of
11 the company, that is not convenient to me to, to, to, to -- to
12 remove them.

13 Q And where does the defendant say these young men have
14 always worked?

15 A The company.

16 MR. ROBOTTI: All right. I would like to play a
17 second call with Gato. This will be the next transcripts in
18 your binder, ladies and gentlemen, 601F-2BT. We can begin at
19 paragraph 15 on page three, and go to paragraph 19 on page
20 four. The audio exhibit is 601-F2B, dated July 9, 2011, at
21 6:44 p. m., and the clip is going to be one minute and 41
22 seconds to one minute and 58 seconds.

23 (Audio played in open court.)

24 MR. ROBOTTI: All right. Let's go right in the next
25 clip, which will be two minutes and 27 seconds to the end of

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1 the call.

2 (Audio played in open court.)

3 MR. ROBOTTI: Sorry. I apologize. Sorry. The
4 paragraph will be paragraph 22 on page four and go to the end.
5 Thanks.

6 (Audio played in open court.)

7 BY MR. ROBOTTI:

8 Q All right. So let's look at paragraph 29. And if you
9 could read -- here, what does the defendant say to Yanqui?

10 A Sorry. Which part again?

11 Q Paragraph 29?

12 A The whole paragraph?

13 Q Please.

14 A JGL: Good, good, my friend. Good afternoon. Nice to
15 talk through these means and this man that is there. This man
16 that is there is from the company. I ask that you take care
17 of him. I ask that you look after him and uh, well, whatever
18 we can do for you, you can count on it, my friend. And also,
19 uh, if there is anyone who is up to no good and so forth, if
20 we can help, you can count on our support.

21 Q And in that paragraph, where does the defendant say the
22 man is from?

23 MR. LICHTMAN: Objection.

24 THE COURT: Sustained.

25 BY MR. ROBOTTI:

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1 Q All right. So looking next to paragraph 31, could you
2 read that?

3 A JGL: Yes, thank you. Uh, listen. Another favor, a
4 special favor I would like to ask. Look, there is -- here at
5 the company, there is -- are some young men of ours that have
6 done a really good job over there. So, uh, I'm going to ask
7 you for a favor that the guy that is there, with -- knows who
8 they are, that you they don't change the ones that are there.
9 They know all the company activities. So I would like that,
10 that they continue there, so that the rest don't find out.

11 Q And then paragraph 38, what does the defendant say to
12 Gato?

13 A Thirty-eight, JGL: Yeah. Get together with him about
14 the guys. Those from the team, do not move them. I already
15 told him.

16 Q And in the following paragraph, 39, how does Gato refer
17 to the defendant?

18 MR. LICHTMAN: Objection.

19 THE COURT: Sustained.

20 BY MR. ROBOTTI:

21 Q And could we read paragraph 40?

22 A JGL: If the boss that you are telling me about shows up,
23 it is better and so that we don't have to talk that much, it
24 is better if you explain to him personally on my behalf that,
25 that, I want to know who those guys are, where they are from,

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1 and more specific details.

2 MR. ROBOTTI: All right. So the next set of calls
3 we will turn to will be between the defendant and M-10. M-10
4 is in the middle Government Exhibit 511-3A, with his
5 photograph there. He's using two different Mexican phone
6 numbers.

7 So the first transcript will be Government Exhibit
8 701-I-7CT, and so that's going to be, ladies and gentlemen,
9 towards the back of your binder.

10 THE COURT: Those are not in my white binder.

11 MR. ROBOTTI: So it's 601-I-7CT.

12 THE COURT: That is in my binder.

13 MR. ROBOTTI: Sorry. I may have misspoken, Your
14 Honor.

15 And the audio is going to be 601-G-2A, dated
16 April 14th, 2011, at 7:32 p.m. The clip will be from three
17 minutes and 36 seconds to five minutes and 22 seconds.

18 And we can -- at paragraph 35 on page five will be
19 where we start and go to paragraph 43 on page seven.

20 We can go ahead and play that.

21 (Audio played in open court.)

22 BY MR. ROBOTTI:

23 Q All right. Looking at paragraph 37, could you read the
24 portion of that paragraph, beginning "especially"?

25 A M-10: Especially, they have always, always been around

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1 us, ever since -- ever since the incident that happened in
2 December, with, with one of our offices. In fact, that group
3 was a special group from -- from Mexico.

4 Q All right. And then paragraphs 41 to 43?

5 A M-10: You know, what it does, uh? Well, it's that these
6 guys are managing it. I was telling Alejo, listen, my --
7 these past days, they have taken about 20 of my guys. Uh,
8 some that -- some that were indeed, indeed, indeed captured
9 while they were operating. They captured them. They're on,
10 on some trail or at some checkpoint.

11 JGL: Yeah.

12 M-10: But there were others that had nothing to do
13 with it, and uh, they were really loaded with, with drugs and
14 with weapons. And they all -- all are -- are all, and they
15 are all, I have 20, 20 guys that have been detained.

16 Q All right. So turning next to paragraph 35. Excuse me.
17 So the second clip will be from six minutes and 21 seconds to
18 nine minutes and 28 seconds and that will be paragraph 47 on
19 page eight, and go to paragraph 61, on page 11.

20 (Audio played in open court.)

21 BY MR. ROBOTTI:

22 Q All right. And stopping for the record, for a moment at
23 one minute and 33 seconds.

24 Directing your attention to paragraph 51. Could you
25 read that paragraph?

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1 A M-10: He called him, and he told him, listen, I'm
2 calling on behalf of Chapo, and on behalf of Mayo, uh, so that
3 you aren't confused and don't get tangled up. He said TM that
4 are there are no longer their people, he said. They went to
5 Los Zetas, he said. And the bosses have ordered to go heavy
6 against them, he said.

7 So then these guys, Felipe and 24, were controlling
8 the soldier assigned to the prosecutor's office, investigators
9 office, and they're communicating with the commanding officer
10 of the Azules in Culiacán and all that. So it's clear that
11 your friend is supporting him.

12 MR. ROBOTTI: All right. And we can play the rest
13 of that clip.

14 (Audio played in open court.)

15 MR. ROBOTTI:

16 Q All right. And looking at paragraph 54 on page ten,
17 could you read the first half of that paragraph, up until
18 "Mario"?

19 A JGL: Let's say that -- that they have, uh, communicated.
20 I'm not saying that he's not because my friend there. Well,
21 I'm not saying he's not because my friend there. Well, he has
22 gone and met every commanding officer that arrives there.

23 As for me, I don't go to see them, I send someone to
24 see them because I'm always up here and uh, but, we have to
25 take a very close look at that man. We have to take a very

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1 close look at that, Mario.

2 Q And the Spanish work for "my friend", which is circled
3 here, what's that?

4 MR. LICHTMAN: Objection.

5 THE COURT: You could read the word.

6 THE WITNESS: Mi compadre.

7 MR. ROBOTTI: Let's turn to the next clip, which
8 will be Government Exhibit 601-I-7DT, the very next transcript
9 in your binders, ladies and gentlemen.

10 It's going to be an audio clip marked 601-G-2B,
11 dated April 4th, 2011, at 7:46 p. m. The clip to be from zero
12 seconds to one minute and 41 seconds, and we're going to begin
13 at paragraph one on page two and go to paragraph eight on page
14 three.

15 (Audio played in open court.)

16 BY MR. ROBOTTI:

17 Q All right. And Special Agent Marston, could you read
18 paragraphs two and three?

19 A JGL: Hello. And have you tried to call or send word to
20 that governor? How long is he going to keep the people there?

21 M-10: Yes. We are in touch. You could say that we
22 have daily contact with him.

23 Q And could you read half of paragraph six, up until "you
24 all"?

25 A JGL: If there is communication with him, well, it's

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1 really easy. Then, then, then, listen, remove those people,
2 and then, then they can stay. But uh, I don't know how it is
3 with that governor and you all.

4 MR. ROBOTTI: All right. The second clip will be
5 the same call from four minutes and 55 seconds to five minutes
6 and 50 seconds. We're going to begin at paragraph 24 on page
7 six and we will go into paragraph 25 on the following page.

8 (Audio played in open court.)

9 BY MR. ROBOTTI:

10 Q All right. So looking at paragraph 25 on page seven,
11 could you read this sentence, just in the middle of paragraph,
12 highlighted here, beginning with, "I'm saying"?

13 A M-10: I'm saying as we have made the effort and have
14 supported the -- the cartel, in what we have been able to,
15 right?

16 MR. ROBOTTI: All right. So the next set of calls
17 we're going to talk about are with the defendant and an
18 unidentified male, listed second from the right in Government
19 Exhibit 511-3A, and using extension 161.

20 So this is going to be Government Exhibit 601-I-9BT.
21 So this should be the very next transcript in your binder,
22 ladies and gentlemen. We're going to begin at paragraph 25 on
23 page four and go to the end.

24 For the record, the audio clip is 601-G3, which is
25 dated June 30th, 2011, and the clip will be from two minutes

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1 and 35 seconds to four minutes and 18 seconds.

2 (Audio played in open court.)

3 BY MR. ROBOTTI:

4 Q All right. So let's look at paragraphs 31 to 33. Could
5 you please read those?

6 A UM1: All right, then. Listen. Now we, we owe you for
7 the stuff we brought over, like a ton, 700. What, whatever
8 was brought over, arrived and delivered over there.

9 And now, uh, like around 120 is on the way, and due
10 to arrive now, arrive now or tomorrow, but the 700 one has
11 already been delivered and received over there.

12 JGL: So 120 is on the way?

13 UM1: Yes. On the way with some guys. They put
14 some guys with three small suitcases and another three and
15 they said tomorrow, they'll arrive, but anyway, we'll jot it
16 down.

17 MR. ROBOTTI: All right. And let's turn to calls
18 between the defendant and UF.

19 Judge, this would be a good place to take the
20 afternoon break or I can go for a few more minutes.

21 THE COURT: Let's do that.

22 Please don't talk about the case, ladies and
23 gentlemen. We'll see you at 3:25.

24 (Jury exits.)

25 THE COURT: About how long, Mr. Robotti?

LISA SCHMID, CCR, RMR

MARSTON/DIRECT/ROBOTTI

1 MR. ROBOTTI: So there's only a few more calls left
2 in this part, and there are some other aspects of this
3 witness's testimony that will take us into tomorrow.

4 THE COURT: Okay. 3:25.

5 (Recess.)

6 THE CLERK: All rise.

7 THE COURT: Please bring in the jury. We'll wait
8 for the defendant, and then we'll bring in the jury.

9 MR. LICHTMAN: Judge, I think we're missing, in case
10 anyone noticed --

11 THE COURT: I noticed. Melonie noticed.

12 (Defendant enters the courtroom.)

13 (Jury enters.)

14 THE COURT: All right. Be seated.

15 We'll continue.

16 MR. ROBOTTI: Thank you, Judge.

17 Special Agent Marston, when we left off, we were
18 about to play some calls between the defendant and UF1, and if
19 you'd look at Government Exhibit 511-3A, she's listed fourth
20 from the right and is using a Mexican telephone number.

21 So for the jurors, this is going to be Government
22 Exhibit 601F-6AT, and the audio clip is going to be 601F-6A,
23 dated May 10th, 2011, at 11:43 p.m. The clip will be from two
24 minutes and 58 seconds to the end, and we're going to begin on
25 paragraph 38 on page five, and go to the end.

LISA SCHMID, CCR, RMR

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1 (Audio played in open court.)

2 BY MR. ROBOTTI:

3 Q All right. So pausing for a moment at two minutes and 44
4 seconds, Special Agent Marston, looking at paragraphs 46 to
5 49, could you please read those?

6 A JGL: What can I tell -- what can you tell me? Do you
7 have -- do you have customers, uh, in Los Angeles or not
8 anymore?

9 UF: We have a lot. Right now, we have customers in
10 Ohio, and that's what I wanted to tell you. Right now, my
11 cousin brings this little label of -- of -- he brings some
12 companies and brings four trailers and he is sending people
13 with 50, with 70 at the most and in four, five days at the
14 latest, they get rid of that for us, up there.

15 JGL: Ohio?

16 Q And 49?

17 A Forty-nine, UF: Well, over there in Ohio, yes, and we
18 have three other places here, but my cousin goes to the 52
19 states, you know. We just, we just need a huge favor and that
20 is to help us -- us -- with some -- with material there, to
21 let us borrow from Los Angeles, so that we can start working
22 or we can work for you. Whatever way you want it.

23 Q Okay. And next, could you read 50 to 54?

24 A JGL: It's just that, what, what is it that you're
25 getting out, uh, cocaine or ice?

LISA SCHMID, CCR, RMR

MARSTON/DIRECT/ROBOTTI

1 UF: CO, and then, no with cocaine, because I had a
2 problem with ice there in, in Tucson. And it's very
3 troublesome, but we have more customers for cocaine. We have
4 them for as ice, but it is much, much harder to -- it's more
5 of a struggle, you know.

6 JGL, line 53: Where do you have them for ice?

7 UF: For ice, we also have them over there, up
8 there, and up there, we have, uh, I placed some, very few over
9 there by like Minneapolis. But there was a slight problem
10 there, but don't think there is a big demand for ice. What we
11 mostly, our main thing is cocaine, you know.

12 Q And then and finally in this clip, could you read 55 to
13 57?

14 A JGL: Okay. Okay. But right now, right now, I don't
15 have cocaine over there. Uh, just yesterday, yesterday, what
16 I took over there was the other stuff, so once cocaine comes
17 in, then --

18 UF: Uh-hum (affirmative response).

19 JGL: We'll make arrangements.

20 MR. ROBOTTI: All right. So could we play the rest
21 of the call?

22 (Audio played in open court.)

23 BY MR. ROBOTTI:

24 Q All right. So, looking back at the transcript, could you
25 read 65 to 68?

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1 A JGL: Do we have customers for ice?

2 UF: For pounds. Not that either. But if you tell
3 me, you know what, there's -- there's some there. Help me.
4 I -- you can be sure that I will be working on that and start
5 looking for people the next day.

6 JGL: Yes. Get them for ice, because that's what I
7 have over there right now.

8 UF: Uh, how many would we start with, so that I can
9 offer them?

10 Q And then last portion, 69 to 71?

11 A JGL: Uh, you tell me this much is needed over there, and
12 I would give them to you over there.

13 UF: Oh, that's great. Oh, well, that's great. I
14 will talk to -- to the people right now I work with and tell
15 them that, you know, that what we have there is that, and --
16 and keeping in mind that when the other stuff arrives, you
17 will hit us hard with it.

18 JGL: I will be sending -- I will be sending someone
19 to talk to you.

20 Q Special Agent Marston, based on your training and
21 experience as a Special Agent in narcotics, what does the term
22 "ice" mean?

23 A It's a slang term for Methamphetamines.

24 MR. ROBOTTI: All right. I would like to play next
25 the transcript 601F-6BT. This should be the next transcript

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1 in your binder.

2 BY MR. ROBOTTI:

3 Q And Special Agent Marston, this is about nine minutes
4 after the previous call, right?

5 A That is correct.

6 (Audio played in open court.)

7 (Continued on the next page.)

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1 BY MR. ROBOTTI: (Continuing.)

2 Q The audio clip is 601-F-6-B which is dated May 10, 2011
3 at 11:52 p.m. And we're going to begin at paragraph one and
4 play the full call.

5 (Audio played.)

6 Q I would like to direct your attention to paragraph 2.
7 could you read that?

8 A "JGL: I'll be sending you -- someone is going to talk to
9 you so that -- talk to El Ranchero to tell him to find
10 customers for ice over there in the United States."

11 Q And paragraph ten?

12 A "JGL: You first check on your customers so that -- so
13 that I can give you a few right now, you know, to try it out,
14 to see -- to see what you think or what they think."

15 Q So I would like to turn back to the voice exemplars we
16 talked about, the jail call and the video. And I would like
17 to play a brief portion of the jail call we listened to
18 earlier, 608-2. Let's play about 30 seconds.

19 MR. ROBOTTI: This is the last transcript in your
20 binder, ladies and gentlemen. And it's only in the binder.
21 And this begins on paragraph 124 on page 12.

22 (Audio played.)

23 BY MR. ROBOTTI:

24 Q Can you describe the similarities or differences in this
25 exemplar to the ones we heard on the Dutch servers?

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1 MR. LICHTMAN: Objection.

2 THE COURT: Hang on.

3 Overruled.

4 Q Go ahead.

5 A The similarities that I hear on the two calls are again
6 to that sing-song-y nature or characteristic of the voice
7 between what we just heard as well as the prior exemplar,
8 between the intercepts and also you have kind of a higher
9 pitch that I pick up in the audio. That's what draws my
10 attention to it.

11 Q I would now like to play the other voice and the exemplar
12 that you listened to. Can we play -- let me show you
13 Government Exhibit 705-C which is in evidence.

14 (Exhibit published.)

15 Q Do you recognize this?

16 A I do.

17 Q And have you previously reviewed this?

18 A I have.

19 Q What do you recognize it as?

20 A This is the Rolling Stone video and it's the excerpts
21 from that video.

22 Q Did you listen to these excerpts in doing your voice
23 comparison?

24 A I did.

25 Q I'm going to play a clip from 1 minute and 40 seconds to

MARSTON/DIRECT/ROBOTTI

1 2 minutes and 12 seconds.

2 (Audio played.)

3 Q Can you describe the similarities or differences that you
4 hear between this voice exemplar and the calls we heard on the
5 Dutch servers?

6 MR. LICHTMAN: Objection.

7 THE COURT: Overruled.

8 A In the Rolling Stone interview the speech pattern is
9 slower and more deliberate which makes sense because it is an
10 interview, but I still hear that higher pitch tone and the
11 kind of sing-song-y variation in the speech. That's the
12 characteristics that I focused on.

13 MR. LICHTMAN: I object and move to strike.

14 THE COURT: I understand the objection. If you want
15 to make a record on it, you can, but I'm overruling the
16 objection.

17 MR. LICHTMAN: I would like to make a record.

18 THE COURT: Okay.

19 (Sidebar held outside of the hearing of the jury.)

20 (Continued on next page.)

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SIDEBAR

1 (The following sidebar took place outside the
2 hearing of the jury.)

3 MR. LICHTMAN: I had to make the continued objection
4 because it was the same one as I had made previously. He's
5 basically testifying as an expert, talking about different
6 modulation of voice and --

7 THE COURT: Federal Rule of Evidence 901(b)(5) says
8 that someone can testify as to their opinion as to somebody's
9 voice if there is a contextual basis for it. I think he's got
10 that. He can give the opinion that it is the same voice he
11 hears. If he can give the opinion that it is the same voice
12 he hears, then I think it follows that he can explain why he
13 has that opinion and that is what he has just done and that is
14 why I have overruled the objections.

15 (Sidebar ends.)

16 (Continued on next page.)

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MARSTON/DIRECT/ROBOTTI

1 BY MR. ROBOTTI:

2 Q Now, Special Agent Marston, I would like to turn to the
3 other online video that you mentioned in your testimony today.
4 When did you first become aware of this video?

5 A March of 2012.

6 Q I would like to show you what's been marked for
7 identification as Government Exhibit 704-B. Do you recognize
8 this?

9 A I do.

10 Q What is this?

11 A It's the results of a search warrant served on Google.

12 Q Does this contain the video that you were referencing?

13 A It does.

14 Q Or a copy of it. And I would like to show you Government
15 Exhibit 704-C and 704-E for identification. Do you recognize
16 these?

17 A I do.

18 Q What are they?

19 A On the left is a clip from the online video and on the
20 right are screenshots as well as the Google letter of
21 authenticity.

22 Q 704-C also contains still shots from the video?

23 A It does.

24 Q And the documents and videos on 704-C, are those marked
25 704-C-1 to 704-C-5?

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1 A Yes.

2 Q The Government -- and are these copies from the video of
3 704-B?

4 THE COURT: Any objection?

5 MR. LICHTMAN: I do, Judge, to the video. The audio
6 I don't have a problem with at this point.

7 THE COURT: What is wrong with the video?

8 MR. LICHTMAN: I think 403 --

9 THE COURT: Let's have a sidebar.

10 (Sidebar held outside of the hearing of the jury.)

11 (Continued on next page.)

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SIDEBAR

1 (The following sidebar took place outside the
2 hearing of the jury.)

3 MR. LICHTMAN: Judge, so we're clear, this is the
4 interrogation video.

5 THE COURT: Right.

6 MR. LICHTMAN: So I don't know why we need to see
7 him interrogating partially a person when the only thing
8 that's relevant to this line of questioning is the audio.

9 MR. ROBOTTI: Your Honor, the witness is going to
10 identify the defendant in the video based on the voice and his
11 physical depiction of him. This is critical evidence in this
12 case that shows the defendant walking back and forth in front
13 of a hostage. We already have a Pretrial ruling that this
14 type of evidence is permissible as part of the methods and
15 means of the CCE and in furtherance of the --

16 THE COURT: The point is if you've got the audio in
17 already what does the video add?

18 MR. ROBOTTI: Your Honor, the video depicts -- on
19 one hand in terms of the identification, it's not just -- it
20 reinforces the identification that this witness has already
21 made here because you can see the visual depiction and he's
22 going to identify both the voice and the person.

23 THE COURT: I wish you had done it in a different
24 order to save time. You could have done the video and the
25 voice at the same time, right?

SIDEBAR

1 MR. ROBOTTI: We're going to play the video and the
2 voice now. They haven't heard the voice yet. He said he
3 previously used this as a voice exemplar in 2012.

4 THE COURT: I do not think it's going to waste so
5 much time that the Government shouldn't be able to do it the
6 way it wants to do it. There is arguably added weight to the
7 video as well as just the audio so I'm going to overrule the
8 objection.

9 (Sidebar ends.)

10 (Continued on next page.)

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1 (Continuing.)

2 MR. ROBOTTI: I think we were pending the
3 Government's motion to admit Government Exhibits 704-C and
4 704-E.

5 THE COURT: Yeah, the motion is granted. The
6 exhibits are received over objection.

7 (Government Exhibits 704-C and 704-E received in
8 evidence.)

9 Q I would like to show you Exhibit 704-C-2 which is in
10 evidence.

11 (Exhibit published.)

12 Q Do you recognize this?

13 A I do.

14 Q What's that?

15 A This is a summary of the information from the Google
16 search warrant.

17 Q And is this provided by Google?

18 A As provided by Google.

19 Q Is this the date and time that the video was created on
20 YouTube?

21 A Yes.

22 Q And what's that?

23 A July 18, 2015 at 1:13 p.m. UTC.

24 Q Now, I would like to show you Government Exhibit 704-A
25 which is in evidence.

SOPHIE NOLAN, OFFICAL COURT REPORTER

MARSTON/DIRECT/ROBOTTI

1 (Exhibit published.)

2 Q Do you recognize this?

3 A I do.

4 Q What's that?

5 A This is a CD containing the video. It's from Live Leak
6 and it has a certification from Live Leak as well.

7 Q I would like to show you Government Exhibit 704-A-1.

8 (Exhibit published.)

9 Q Is that the certification you just described for us?

10 A Yes.

11 Q And what's the date according to the certification on
12 which this video was uploaded?

13 A March 11, 2012.

14 Q And how does the video in Government Exhibit 704-A from
15 LiveLeak.com compare to the YouTube video in 704-C?

16 A They're the same.

17 Q And showing you Government Exhibit 704-D.

18 (Exhibit published.)

19 Q Do you recognize this?

20 A I do.

21 Q And what's that?

22 A This is a subtitled version of the YouTube video.

23 Q Were those subtitles on the video or were they added?

24 A They were added.

25 Q Now did you recognize anyone in the video on Government

MARSTON/DIRECT/ROBOTTI

1 Exhibit 704-D?

2 A I did.

3 Q Who did you recognize?

4 A The defendant.

5 Q And how did you recognize him?

6 A From his speech as well as visual.

7 Q All right. So at this time the Government would like to
8 play the video on Government Exhibit 704-D.

9 (Video played.)

10 Q Next I would like to turn our attention to 704-C-4 and
11 704-C-5 which are in evidence.

12 (Exhibit published.)

13 Q There is 704-C-5 and 704-C-4. Do you recognize these?

14 A I do.

15 Q And what are they?

16 A Those are screenshots from the video.

17 Q I would like to show you a few photographs now. Showing
18 you Government Exhibit 1-J for identification. Do you
19 recognize anyone in that photograph?

20 A I do.

21 Q And who is that?

22 A The gentleman sitting down blue shirt second from the
23 right is the defendant.

24 MR. ROBOTTI: The Government offers Government
25 Exhibit 1-J.

MARSTON/DIRECT/ROBOTTI

1 MR. LICHTMAN: No objection.

2 THE COURT: Received.

3 (Government Exhibit 1-J received in evidence.)

4 (Exhibit published.)

5 BY MR. ROBOTTI:

6 Q Next looking at Government Exhibit 1-C which is marked
7 for identification, do you recognize anyone in this photo?

8 A I do.

9 Q Who is that?

10 A On the left-hand side is the defendant.

11 MR. ROBOTTI: The Government offers Government
12 Exhibit 1-C into evidence.

13 MR. LICHTMAN: I object.

14 THE COURT: Overruled.

15 (Government Exhibit 1-C received in evidence.)

16 THE COURT: If you have 50 of these, it is going to
17 be too many.

18 MR. ROBOTTI: I don't have 50. Just two more, Your
19 Honor.

20 Q And the next two are in evidence, Government Exhibit 1-L
21 and 1-G.

22 (Exhibit published.)

23 Q Government Exhibit 1-L, do you recognize anyone in that
24 photo?

25 A I do.

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1 Q Who is that?

2 A The defendant is on the right-hand side.

3 Q And Government Exhibit 1-G do you recognize anyone in
4 that?

5 A I do.

6 Q Who is that?

7 A The defendant.

8 Q And what did you notice about these photographs as
9 compared to the screenshots we looked at from the video?

10 A The one thing that I pointed out is the hat, the ball cap
11 is in each. The mustache, although on the video it's
12 difficult to see, I'm not sure you can see it and the
13 dark-colored hair and that comes down below the ball cap.

14 Q Now, during the course of your investigation did you
15 compare this online video to anything else?

16 A I did.

17 Q And what prompted you to do that?

18 A One of our translators told us that a portion of the --

19 MR. LICHTMAN: Objection.

20 MR. PURPURA: Objection.

21 THE COURT: Just one is fine, but it is overruled.

22 He's not offering it for the truth. He is offering it to
23 explain why he did what he next did.

24 BY MR. ROBOTTI:

25 Q Stepping back, what did you compare this video to?

MARSTON/DIRECT/ROBOTTI

1 A One of the intercepted calls.

2 Q What prompted you to do that?

3 THE COURT: Do not tell us the specifics. Just say
4 generally what prompted you to do this. Go ahead.

5 A One of the translators advised that a portion of the call
6 or a portion of what was on the video was intercepted on our
7 calls.

8 Q And what did you notice when you did that comparison?

9 A I noticed that again a portion of the video or the
10 portion of the conversation that was on the video is exactly
11 what is on our intercepted calls.

12 Q And could you describe how this conversation was captured
13 in calls?

14 A A particular call, it's captured as background.
15 Background noises, if you would, on a call that had -- did not
16 connect.

17 Q So is that call what -- one of the ones we've talked
18 about before, Government Exhibit 601-F-4 which is in evidence?

19 A Yes.

20 Q And that's a call dated April 25, 2011?

21 A That's correct.

22 Q Now, in preparation for your testimony today, have you
23 reviewed an enhanced version of this phone call?

24 A I have.

25 Q Is that the phone call in evidence as Government Exhibit

MARSTON/DIRECT/ROBOTTI

1 601-N-2?

2 A It is.

3 Q So before we turn to the enhanced version of this call,
4 let's play the first 15 seconds of the original just to hear
5 how it's captured.

6 (Audio played.)

7 Q Could you describe what we heard there?

8 A I hear someone in the background -- a conversation that's
9 happening and the beeping sound you hear is the dial tone.

10 Q All right. And now let's turn to Government Exhibit
11 601-N-2. What did you notice about this version of the call
12 as compared to the original call?

13 A The enhanced version changes some of the frequencies so
14 it will mute -- not mute, but it will bring down the quality
15 of the beeping sound and it enhances some of the background
16 conversation.

17 Q Before we play this exhibit, is there anything that the
18 jury should listen out for?

19 MR. LICHTMAN: Objection.

20 THE COURT: Sustained.

21 MR. ROBOTTI: Can we approach, Your Honor.

22 THE COURT: No. Think of another way to ask the
23 question.

24 MR. ROBOTTI: Okay.

25 BY MR. ROBOTTI:

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1 Q Are there any noticeable characteristics in this call?

2 A Yes. One of the most noticeable is towards the end of
3 the call you will hear a beep that's kind of distinguishable.
4 You will hear the roosters in the background and you can also
5 pick up on some of the locations they talk about like Los
6 Noches and Zacatecas.

7 Q So, let's go ahead and play that call.

8 (Audio played.)

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Denise Parisi, RPR, CRR

MARSTON/DIRECT/ROBOTTI

1 (Recording played.)

2 DIRECT EXAMINATION

3 BY MR. ROBOTTI: (Continued.)

4 Q All right. So do you hear that ding at the end there?

5 A I did.

6 Q So can we just back up to 55 seconds for a moment and
7 play about ten seconds of that and to listen for it? And can
8 you tell us, Special Agent Marston, after you hear it?

9 (Recording played.)

10 A There's the sound.

11 MR. ROBOTTI: Can we go back to 704-D, the video,
12 for a moment and start at 1:05 and play for about 15 seconds?

13 (Video played.)

14 BY MR. ROBOTTI:

15 Q What did you hear there?

16 A It was just prior to that. It's not as discernable as
17 the prior enhanced video.

18 Q Now, I would like to show you what's marked for
19 identification as Government's Exhibit 511-6. What's this?

20 A These are two transcripts, one from the intercepted
21 calls, and the other one is from the video transcript.

22 Q All right. And so is Government's Exhibit 601F-4T the
23 transcript of the call we just listened to?

24 A Yes.

25 Q And is Government's Exhibit 704-T the transcript of the

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1 video?

2 A That's correct.

3 Q Your Honor, the Government is going to offer Government's
4 Exhibit 511-6 into evidence?

5 MR. LICHTMAN: No objection.

6 THE COURT: Received.

7 (Government's Exhibit 511-6 received in evidence.)

8 MR. ROBOTTI: I would like to put this up on the
9 PowerPoint, if we can.

10 I think our mics might still be out, sorry.

11 THE COURTROOM DEPUTY: One second.

12 BY MR. ROBOTTI:

13 Q All right. Special Agent Marston, can you tell the jury
14 what we are looking at here?

15 A We have the two transcripts side by side, and the
16 highlighted portions in each transcript are the places or the
17 locations where the conversation is exactly the same.

18 Q All right. So let's look at a few examples. First let's
19 look at paragraph 6 on the left from the call transcript and
20 paragraph 6 from the video transcript on the right.

21 Could you read the identical portions in both here?

22 A Certainly.

23 On the left: So the ones from Mazatlan, those
24 from...

25 And from the video transcript on the right: So the

MARSTON/DIRECT/ROBOTTI

1 ones from Mazatlan, those from...

2 Q All right. Let's look at paragraph 9 from the call, and
3 paragraph 11 from the video.

4 A Paragraph 9 from the call: There's also people from
5 there, from, from Zacatecas, and they -- and there we picked
6 up El Quattro and the other.

7 And then from line 11 on the video transcript on the
8 right: There's also people from there, from, from Zacatecas,
9 and there we picked up El Quattro and the other.

10 Q And just one more of these, paragraphs 15 and 19.

11 A Fifteen on the left from the call: We have the beep.
12 They asked me for several pick-up trucks. I don't know how
13 many they're -- they were going to send.

14 And then line 19 from the video transcript on the
15 right: The beep again. They asked me for several pick-up
16 trucks. I don't know how many they are going to send.

17 Q Is that beep we talked about in the same place in both
18 transcripts?

19 A It is.

20 Q Now, there's certain text from lines 4 to 20 on the video
21 transcript that are not in the transcript of the call. Are
22 you able to determine why that is?

23 A There was background, so the intercepted call was picking
24 up the background noise, plus you had the beeping at the same
25 time, so we were not getting a clear call through.

MARSTON/DIRECT/ROBOTTI

1 Q So certain portions of the conversation were not captured
2 in the background there?

3 A That's correct.

4 Q Now, similarly, lines 1 through 3 in the call transcript
5 on the left, those did not appear to be captured in the video;
6 is that right?

7 A That is correct.

8 Q And were you able to tell why that is?

9 A There appears to be an edit to the video.

10 Q Okay. And if we can just go to 26 seconds in the video,
11 and we'll play about ten seconds, and could you just let us
12 know where you see the edit?

13 (Video played.)

14 BY MR. ROBOTTI:

15 Q And you saw the edit there?

16 A So it's before -- there's screen shots on the left, and
17 then the screen moves to the right, and to me, that's where
18 the edit is.

19 Q And was that about 32 seconds or so?

20 A I believe so.

21 Q All right. So based on your review of the transcripts,
22 what did you conclude?

23 A I concluded that a portion of the online video was, in
24 fact, captured on our intercepted calls.

25 Q Is that the same conversation captured in both?

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1 A It is.

2 Q All right. I would like to next direct your attention to
3 February 22nd, 2012. Were you working as a special agent that
4 day?

5 A I was.

6 Q And what was your assignment?

7 A I was assigned at the time to our headquarters.

8 Q And where were you located?

9 A For me, I was located down in Washington, D.C. in the
10 United States.

11 Q And where had you been located in the days before that?

12 A We were in Mexico City, Mexico.

13 Q What were your duties and responsibilities while you were
14 in Mexico City, Mexico?

15 A We were supporting a operation targeting the defendant.

16 Q And did that operation take place?

17 A It did.

18 Q And what date was that?

19 A February 22nd, 2012.

20 Q Now, were you actually in Mexico for the operation
21 itself, or just the days leading up to it?

22 A We were there for the days leading up to it.

23 Q And where were you during the actual operation?

24 A Back in the United States.

25 Q And during the course of your investigation, did you

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1 review any documents seized during that raid?

2 A I did.

3 Q What type of documents, in general, did you review?

4 A Documents were basically -- were ledgers.

5 Q And other photographs did you review as well?

6 A I did review the other photographs from the operation.

7 Q All right. I would like to show you what's in evidence
8 as Government's Exhibit 218-22. And there's multiple pages
9 here, but just flipping through some of them, do you recognize
10 this?

11 A I do.

12 Q What is this?

13 A These are some of the photographs taken from the
14 operation in Los Cabo's.

15 Q All right. I would like to look at page 13441A.

16 Do you recognize that?

17 A I do.

18 Q And what's that?

19 A These are pictures taken from the scene. They were
20 inside a book. On the top right, they talk about the
21 "extensiones," and they match up with our information that
22 they used extensions on the security system.

23 Q And are there other pages in this document as well that
24 have similar entries; for instance, 13440A?

25 A Yes.

Denise Parisi, RPR, CRR

MARSTON/DIRECT/ROBOTTI

1 Q All right. I would like to show you what's been marked
2 as Government's Exhibit 511-9 for identification.

3 Do you recognize this?

4 A I do.

5 Q And what's this?

6 A It's a summary of the information found in the seized
7 phonebook, as well as the captured extensions from our
8 interceptions.

9 MR. ROBOTTI: Your Honor, the Government offers
10 Government's Exhibit 511-9 into evidence.

11 MR. LICHTMAN: No objection.

12 THE COURT: Received.

13 (Government's Exhibit 511-9 received in evidence.)

14 (The above-referred to exhibit was published.)

15 BY MR. ROBOTTI:

16 Q All right. So looking at these pages at the bottom here,
17 what do we see?

18 A Photocopies from one of the books found in Cabo that have
19 different extensions on them.

20 Q And this information here at the top under phonebook
21 information (indicating), what's that?

22 A It's a compilation of the information in the slides below
23 or the pictures below.

24 Q So those are the extensions and names pulled out of the
25 slides below?

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1 A That's correct.

2 Q And what do we see here on the left (indicating)?

3 A On the left is the captured extensions associated with
4 our interceptions.

5 Q And what do you mean by that?

6 A When the calls went through, as we talked about earlier,
7 they had extensions. If it was internal, we captured those
8 extensions during the course of the interceptions.

9 Q And so those are listed on the left here (indicating)?

10 A That's correct.

11 Q And what do we see on the right portion here?

12 A That is a name from the phonebook entries which would be
13 the information from the Cabo San Lucas operation.

14 Q So I would now like to show you a highlighted version
15 marked Government's Exhibit 511-9A, and this is an identical
16 copy, Your Honor, so we just move this into evidence?

17 THE COURT: Okay. Received.

18 (Government's Exhibit 511-9A received in evidence.)

19 (The above-referred to exhibit was published.)

20 BY MR. ROBOTTI:

21 Q All right. So could you read for us the entries in this
22 phonebook highlighted in yellow?

23 A Certainly.

24 Extension 102, Charly, in parentheses is Lucero;
25 extension 125, Felizardo; extension 128, Secre; extension 129,

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1 Tocayo; extension 130, Mama Tocayo; extension 131, Menor;
2 extension 135, Raton; extension 136, the number 50 --

3 THE COURT: What did you say 125 was?

4 THE WITNESS: 135, sir?

5 THE COURT: No. 125.

6 THE WITNESS: Felizardo.

7 THE COURT: Okay.

8 BY MR. ROBOTTI:

9 Q I think you were on 150, I think, is the next one here
10 (indicating).

11 A 150 -- extension 150, Cosina; extension 152, Alfredo;
12 extension 166, Menor; extension 718, Roke; extension 725,
13 Cachimba; extension 728, Comp. Cosina; extension 733, Zazaza;
14 extension 777, Panchito; there's a phone number, 667-746-7667,
15 Tello; there's a cutoff, which the extensions or the numbers
16 could not be read, and it's Markitos.

17 Q All right. And so then let's just look briefly at the
18 other chart here on the left under captured extensions. And
19 so does the captured extension here correspond to the same
20 entry in the phonebook information?

21 A That is correct.

22 Q All right. Could you read for us the captured extensions
23 highlighted in blue?

24 A Certainly.

25 Extension 101 is Charly Karen; extension 127,

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1 Mexicali; extension 137, Virgo; extension 145, Lic. Omar;
2 extension 147, Gordito; extension 148, Moiran; extension 165,
3 Popeye; extension 170, Gato.

4 MR. ROBOTTI: Your Honor, I'm about to go to a new
5 topic. I think now would be a good time to break.

6 THE COURT: Okay.

7 We will break for the day, ladies and gentleman.
8 Please remember not to talk about the case with anybody, don't
9 do any research on the case, don't post anything on the
10 Internet, don't do a Google search, and stay away from any
11 media coverage of the case that you might run into. See you
12 tomorrow morning at 9:30.

13 (Jury exits.)

14 THE COURT: Anything else we need to cover?

15 MS. PARLOVECCHIO: No, Your Honor, not from the
16 Government.

17 MR. LICHTMAN: I just have one issue about --

18 THE COURT: Everyone sit down, please.

19 MR. LICHTMAN: The issue of the sealing this
20 morning. We have no problem with it being unsealed.

21 THE COURT: Okay. That's helpful. Thank you.

22 Okay. See you tomorrow morning 9:30.

23 (Matter adjourned to January 9, 2019, 9:30 p.m.)

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